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<p>1</p> <p>2 UNITED STATES DISTRICT COURT</p> <p>3 EASTERN DISTRICT OF NEW YORK</p> <p>4 -----X</p> <p>5 EDWARD CARTER, FRANK FIORILLO,</p> <p>6 KEVIN LAMM, JOSEPH NOFI, and</p> <p>7 THOMAS SNYDER,</p> <p>8 Plaintiffs,</p> <p>9 vs. Case No. 07-1215</p> <p>10 INCORPORATED VILLAGE OF</p> <p>11 OCEAN BEACH; MAYOR JOSEPH C.</p> <p>12 LOEFFLER, JR., individually,</p> <p>13 and in his official capacity;</p> <p>14 former mayor NATALIE K.</p> <p>15 ROGERS, individually and in</p> <p>16 her official capacity, OCEAN</p> <p>17 BEACH POLICE DEPARTMENT;</p> <p>18 ACTING DEPUTY POLICE CHIEF</p> <p>19 GEORGE B. HESSE, individually</p> <p>20 and in his official capacity;</p> <p>21 SUFFOLK COUNTY; SUFFOLK COUNTY</p> <p>22 POLICE DEPARTMENT; SUFFOLK COUNTY</p> <p>23 DEPARTMENT OF CIVIL SERVICE; and</p> <p>24 ALISON SANCHEZ, individually and</p> <p>25 in her official capacity,</p> <p>Defendants.</p> <p>-----X</p> <p>DEPOSITION OF NATALIE K. ROGERS</p> <p>Uniondale, New York</p> <p>November 14, 2008</p> <p>Reported by:</p> <p>Bonnie Pruszynski, RMR</p> <p>JOB NO. 18811</p>	<p>1</p> <p>2 APPEARANCES:</p> <p>3 THOMPSON WIGDOR & GILLY, LLP</p> <p>4 Attorneys for Plaintiffs</p> <p>5 85 Fifth Avenue</p> <p>6 New York, New York 10003</p> <p>7 BY: ARIEL Y. GRAFF, ESQ.</p> <p>8 RIVKIN RADLER, LLP</p> <p>9 Attorneys for Defendants Incorporated Village of</p> <p>10 Ocean Beach, Mayor Joseph C. Loeffler, Jr., former</p> <p>11 mayor Natalie K. Rogers:</p> <p>12 926 RexCorp Plaza</p> <p>13 Uniondale, New York 11556</p> <p>14 BY: KENNETH A. NOVIKOFF, ESQ.</p> <p>15 -and-</p> <p>16 BEE READY FISHBEIN HATTER & DONOVAN, LLP</p> <p>17 170 Old Country Road</p> <p>18 Mineola, New York 11501</p> <p>19 BY: JOSHUA M. JEMAL, ESQ.</p> <p>20 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.</p> <p>21 Attorneys for Acting Deputy Police Chief George B.</p> <p>22 Hesse:</p> <p>23 530 Saw Mill River Road</p> <p>24 Elmsford, New York 10523</p> <p>25 BY: KEVIN W. CONNOLLY, ESQ.</p> <p>SUFFOLK COUNTY DEPARTMENT OF LAW</p> <p>Attorneys for Suffolk County Defendants</p> <p>H. Lee Dennison Building, 6th Floor</p> <p>100 Veterans Memorial Highway</p> <p>Hauppauge, New York 11788</p> <p>BY: SAMANTHA N. McEACHIN, ESQ.</p> <p>ALSO PRESENT: Steve Sanpietro, Legal Video</p> <p>Specialist</p> <p>Ryan Rudich, Law Clerk,</p> <p>Thompson, Wigdor & Gilly</p> <p>Frank Fiorillo</p> <p>Kevin Lamm</p>
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<p>1</p> <p>2 November 14, 2008</p> <p>3 10:15 a.m.</p> <p>4</p> <p>5</p> <p>6 VIDEOTAPED DEPOSITION OF NATALIE K.</p> <p>7 ROGERS, held at Rivkin Radler, LLP, RexCorp</p> <p>8 Plaza, Uniondale, New York, before</p> <p>9 Bonnie Pruszynski, Registered Professional</p> <p>10 Reporter, Registered Merit Reporter,</p> <p>11 Certified LiveNote Reporter, and a Notary</p> <p>12 Public of the State of New York.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 N. Rogers</p> <p>2 THE VIDEOGRAPHER: This is the start 09:55</p> <p>3 of the tape labeled number one of the</p> <p>4 videotape deposition of Natalie Rogers in</p> <p>5 the matter of Edward Carter, et al, versus</p> <p>6 Incorporated Village of Ocean Beach, et al,</p> <p>7 in the United States District Court, Eastern</p> <p>8 District of New York, Number CV 07-1215.</p> <p>9 This deposition is being held at 10:15</p> <p>10 926 RexCorp Plaza, Uniondale, New York, on</p> <p>11 Friday, November the 14th, 2008, at</p> <p>12 approximately 10:15 a.m.</p> <p>13 My name is Steve Sanpietro from TSG 10:16</p> <p>14 Reporting, Inc., and I am the Legal Video</p> <p>15 Specialist.</p> <p>16 The court reporter today is Bonnie 10:16</p> <p>17 Pruszynski, in association with TSG</p> <p>18 Reporting.</p> <p>19 Will counsel please introduce 10:16</p> <p>20 yourselves for the record?</p> <p>21 MR. GRAFF: Ari Graff of the law firm 10:16</p> <p>22 Thompson, Wigdor & Gilly, LLP, representing</p> <p>23 plaintiffs.</p> <p>24 With me here today is Ryan Rudich. 10:16</p> <p>25 He's a paralegal with our firm.</p>

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<p>1 N. Rogers</p> <p>2 Also present are two of our clients, 10:16</p> <p>3 the plaintiffs in this action, Frank</p> <p>4 Fiorillo and Kevin Lamm.</p> <p>5 MR. NOVIKOFF: On behalf of the 10:16</p> <p>6 Village defendants, Mayor Loeffler, former</p> <p>7 Mayor Rogers, Ken Novikoff of the law firm</p> <p>8 of Rivkin Radler LLP.</p> <p>9 With me today is Josh Jemal of the 10:16</p> <p>10 law firm of Bee Ready representing the</p> <p>11 Village as general counsel.</p> <p>12 MR. CONNOLLY: On behalf of defendant 10:17</p> <p>13 Acting Deputy Police Chief George Hesse,</p> <p>14 Kevin Connolly of Marks, O'Neill, O'Brien &</p> <p>15 Courtney.</p> <p>16 MS. McEACHIN: On behalf of Suffolk 10:17</p> <p>17 County Police Department, the Suffolk County</p> <p>18 Department of Civil Service and the County</p> <p>19 of Suffolk itself, Samantha McEachin,</p> <p>20 Suffolk County Department of Law,</p> <p>21 100 Veterans Memorial Highway, Hauppauge,</p> <p>22 New York 11788.</p> <p>23 THE VIDEOGRAPHER: Will the court 10:17</p> <p>24 reporter please swear in the witness?</p> <p>25 (Witness sworn.) 10:17</p>	<p>1 N. Rogers</p> <p>2 MR. GRAFF: I understand -- 10:18</p> <p>3 MR. NOVIKOFF: All objections as to 10:18</p> <p>4 relevancy are reserved until the time of</p> <p>5 trial. Objections to form need to be raised</p> <p>6 at the time or they are waived.</p> <p>7 Are you aware of those stipulations? 10:18</p> <p>8 I just want to make sure we're all aware of</p> <p>9 what stipulations we're covered today.</p> <p>10 MR. GRAFF: I am aware of the Federal 10:18</p> <p>11 Rules, which do cover those items.</p> <p>12 MR. NOVIKOFF: Okay. 10:18</p> <p>13 NATALIE ROGERS, 10:18</p> <p>14 called as a witness, having been first 10:18</p> <p>15 duly sworn, was examined and testified 10:18</p> <p>16 as follows: 10:18</p> <p>17 EXAMINATION 10:18</p> <p>18 BY MR. GRAFF: 13:39</p> <p>19 Q Ms. Rogers, my name is Ari Graff. As 10:18</p> <p>20 you heard a moment ago, I'm a lawyer representing</p> <p>21 the plaintiffs in this case, and I am going to be</p> <p>22 asking you a series of questions today.</p> <p>23 Before we start -- 10:18</p> <p>24 MR. NOVIKOFF: Actually, Counsel, 10:18</p> <p>25 please don't make any speeches to my client.</p>
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<p>1 N. Rogers</p> <p>2 MR. GRAFF: This deposition will be 10:17</p> <p>3 governed by the Federal Rules of Civil</p> <p>4 Procedure and the local rules for the</p> <p>5 Eastern District of New York.</p> <p>6 MR. NOVIKOFF: Well, if I am clear 10:17</p> <p>7 then, the regular stips are applicable in</p> <p>8 this deposition?</p> <p>9 MR. GRAFF: Are you referring to a 10:17</p> <p>10 stip that is not consistent with the --</p> <p>11 MR. NOVIKOFF: Just the normal and 10:17</p> <p>12 customary stips in federal court</p> <p>13 depositions. I just want to make sure, like</p> <p>14 with Ms. Minerva's deposition, that they're</p> <p>15 applicable in this one.</p> <p>16 MR. GRAFF: Are you concerned that 10:18</p> <p>17 there is a stip that's not provided for?</p> <p>18 MR. NOVIKOFF: I just want to have a 10:18</p> <p>19 confirmation with you.</p> <p>20 MR. GRAFF: It's difficult for me to 10:18</p> <p>21 confirm when I'm not clear what you are</p> <p>22 referring to.</p> <p>23 MR. NOVIKOFF: Do you understand what 10:18</p> <p>24 the regular stips are in federal court</p> <p>25 depositions?</p>	<p>1 N. Rogers</p> <p>2 Limit your communications with her to</p> <p>3 questions.</p> <p>4 So, why don't you proceed with your 10:18</p> <p>5 first question? She understands what she</p> <p>6 needs to understand.</p> <p>7 MR. GRAFF: I would like to cover 10:19</p> <p>8 some ground rules on the record.</p> <p>9 MR. NOVIKOFF: There are no ground 10:19</p> <p>10 rules on the record. You are here to ask my</p> <p>11 client questions. Whatever ground rules she</p> <p>12 needs to know, she knows or she doesn't</p> <p>13 know.</p> <p>14 Please limit your communications to 10:19</p> <p>15 my client with just questions.</p> <p>16 MR. GRAFF: I will note one item 10:19</p> <p>17 respectfully, Mr. Novikoff.</p> <p>18 BY MR. GRAFF: 10:19</p> <p>19 Q To the extent that you need to take a 10:19</p> <p>20 break --</p> <p>21 MR. NOVIKOFF: She understands that. 10:19</p> <p>22 Please.</p> <p>23 Q Ms. Rogers, just a question of 10:19</p> <p>24 etiquette.</p> <p>25 I understand that you were the Mayor 10:19</p>

<p style="text-align: right;">Page 9</p> <p>1 N. Rogers</p> <p>2 of Ocean Beach. Is it customary for people to</p> <p>3 address you as Mayor Rogers or Ms. Rogers?</p> <p>4 A Mayor Rogers. 10:20</p> <p>5 Q Thank you. 10:20</p> <p>6 MR. NOVIKOFF: Just to clarify, she 10:20</p> <p>7 is not the Mayor of Ocean Beach. She was.</p> <p>8 MR. GRAFF: I understand. 10:20</p> <p>9 MR. NOVIKOFF: Okay. 10:20</p> <p>10 BY MR. GRAFF: 10:20</p> <p>11 Q Mayor Rogers, are you presently 10:20</p> <p>12 taking any medications that could affect your</p> <p>13 ability to testify truthfully today?</p> <p>14 A No. 10:20</p> <p>15 Q Are you presently taking any 10:20</p> <p>16 medications that could affect your ability to</p> <p>17 testify completely today?</p> <p>18 A No. 10:20</p> <p>19 Q Have you consumed any alcoholic 10:20</p> <p>20 beverages in the last 24 hours?</p> <p>21 MR. NOVIKOFF: Objection. Counsel, 10:20</p> <p>22 if you want to ask her if she's drunk, ask</p> <p>23 her. If you want to ask her whether or not</p> <p>24 any consumption of alcohol has impacted her</p> <p>25 ability to testify truthfully, ask her.</p>	<p style="text-align: right;">Page 11</p> <p>1 N. Rogers</p> <p>2 A No. 10:21</p> <p>3 Q Is there any reason you could think 10:21</p> <p>4 of why you will not be able to answer my questions</p> <p>5 truthfully and completely today?</p> <p>6 A No. 10:21</p> <p>7 Q Are you represented by an attorney in 10:21</p> <p>8 connection with this deposition?</p> <p>9 A Would that -- 10:21</p> <p>10 MR. NOVIKOFF: You can answer. 10:22</p> <p>11 A Yes. 10:22</p> <p>12 Q And would that be Mr. Novikoff who is 10:22</p> <p>13 sitting next to you?</p> <p>14 A Yes. 10:22</p> <p>15 Q When did you first learn that the 10:22</p> <p>16 plaintiffs in this case were making allegations</p> <p>17 against Ocean Beach and others?</p> <p>18 MR. NOVIKOFF: Objection, only to the 10:22</p> <p>19 phrase "allegations." I don't know what</p> <p>20 that means, whether it means in the context</p> <p>21 of the formal complaint or allegations prior</p> <p>22 to the complaint.</p> <p>23 But you can answer. 10:22</p> <p>24 Unless you want to rephrase your 10:22</p> <p>25 question.</p>
<p style="text-align: right;">Page 10</p> <p>1 N. Rogers</p> <p>2 But just to ask her if she's consumed 10:20</p> <p>3 alcoholic beverages is, quite frankly, a</p> <p>4 ridiculous question. So, if you want to</p> <p>5 keep that question, then go ahead.</p> <p>6 Q Have you consumed any alcoholic 10:20</p> <p>7 beverages in the last 24 hours, Mayor Rogers?</p> <p>8 MR. NOVIKOFF: Note my objection. 10:21</p> <p>9 You can answer. 10:21</p> <p>10 A Yes. 10:21</p> <p>11 Q And when did you consume the most 10:21</p> <p>12 recent alcoholic beverage?</p> <p>13 A About 6 o'clock last night. 10:21</p> <p>14 Q And in total yesterday, how many 10:21</p> <p>15 alcoholic beverages did you consume?</p> <p>16 MR. NOVIKOFF: Note my objection. 10:21</p> <p>17 A One. 10:21</p> <p>18 Q Thank you. 10:21</p> <p>19 Are you sick at all today? 10:21</p> <p>20 MR. NOVIKOFF: Objection. Define 10:21</p> <p>21 "sick."</p> <p>22 THE WITNESS: Am I supposed to answer 10:21</p> <p>23 that?</p> <p>24 MR. NOVIKOFF: If you can understand 10:21</p> <p>25 the question.</p>	<p style="text-align: right;">Page 12</p> <p>1 N. Rogers</p> <p>2 MR. GRAFF: Mr. Novikoff, I note you 10:22</p> <p>3 have the right to object to the form of the</p> <p>4 question. I would ask that you limit your</p> <p>5 objection and the description of the basis</p> <p>6 for your objection unless I ask for further</p> <p>7 clarification.</p> <p>8 MR. NOVIKOFF: Oh, is that how you 10:22</p> <p>9 want to work it? Unless you ask me for</p> <p>10 clarification, you don't want me to try to</p> <p>11 assist you in properly forming the question?</p> <p>12 MR. GRAFF: If you object -- 10:22</p> <p>13 MR. NOVIKOFF: Because the question 10:22</p> <p>14 you're asking is, when did you first learn</p> <p>15 of the allegations that plaintiffs may have</p> <p>16 made? And I don't know what you mean by</p> <p>17 "allegations."</p> <p>18 But you're right. I won't speak 10:22</p> <p>19 unless you want me to help you clarify the</p> <p>20 question. Note my objection.</p> <p>21 You can answer the question. 10:23</p> <p>22 A Sometime in the spring of 2006. 10:23</p> <p>23 Probably, to my recollection, in April.</p> <p>24 Q And what allegations did you learn 10:23</p> <p>25 that plaintiffs were making against Ocean Beach in</p>

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1 **N. Rogers**
2 **the spring of 2006, perhaps around April?**
3 A That certain police officers, who had 10:23
4 been -- who had worked for the Village prior to
5 that year, were not hired for the year 2006.
6 **Q And how did you learn of those 10:23**
7 **allegations? Who communicated that to you?**
8 MR. NOVIKOFF: Note my objection. 10:24
9 You can answer. 10:24
10 A George Hesse. 10:24
11 **Q And was that a written, verbal or 10:24**
12 **spoken communication?**
13 A Yes. 10:24
14 **Q Was that an in-person conversation? 10:24**
15 A Yes. 10:24
16 **Q Where were you when you had that 10:24**
17 **conversation with George Hesse?**
18 A I was in front of my own home, which 10:24
19 is a condo. Mr. Hesse passed by and saw me -- I
20 was out on the deck -- and stopped and talked to
21 me.
22 MR. NOVIKOFF: Let's go off the 10:24
23 record for three seconds.
24 THE VIDEOGRAPHER: The time is now 10:24
25 10:24 a.m.

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1 **N. Rogers**
2 We are now off the record. 10:24
3 (Discussion held off the record.) 10:24
4 MR. NOVIKOFF: Okay, we are back on. 10:24
5 THE VIDEOGRAPHER: One second. 10:24
6 The time is now 10:24 a.m. 10:24
7 We are now back on the record. 10:25
8 BY MR. GRAFF: 10:25
9 **Q Mayor Rogers, where is the home that 10:25**
10 **you referred to located?**
11 A It's Condo Number 7, on Dehnhoff 10:25
12 Walk, north of Bay Walk.
13 **Q And is that location within Ocean 10:25**
14 **Beach?**
15 A Yes, in Ocean Beach. 10:25
16 **Q When you say that George Hesse passed 10:25**
17 **by, was he driving in a car at that time?**
18 A No. 10:25
19 **Q He was walking? 10:25**
20 A To my recollection, yes. 10:25
21 **Q And in substance, can you please tell 10:25**
22 **me what George Hesse communicated to you and what**
23 **you communicated to George Hesse in that**
24 **conversation.**
25 A In essence, he said that he didn't 10:25

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1 **N. Rogers**
2 know if I had heard, but he wanted to inform me
3 that some police officers who had worked for the
4 Village previously had not been hired for the year
5 2006.
6 **Q And what did you say to him when he 10:26**
7 **advised you of that?**
8 MR. NOVIKOFF: Objection. 10:26
9 You can answer. 10:26
10 A I asked him why. 10:26
11 **Q And what did Mr. Hesse say in 10:26**
12 **response to that question?**
13 MR. NOVIKOFF: Objection. 10:26
14 You can answer. 10:26
15 A He said that was his best judgment as 10:26
16 to their -- as to -- as to whether he felt it was
17 appropriate to hire them.
18 **Q Do you recall if he explained why it 10:27**
19 **was in his best judgment better not to rehire**
20 **them?**
21 A I don't believe he did explain fully, 10:27
22 no.
23 **Q Did you ask him to explain it? 10:27**
24 A I asked him only one question. 10:27
25 **Q And is that the question that you 10:27**

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1 **N. Rogers**
2 **already referred to?**
3 A No. 10:27
4 **Q What question did you ask him? 10:27**
5 A I asked him if he had cleared this 10:27
6 with Civil Service, and if this had been -- his
7 action was consistent with the proper application
8 of Civil Service law.
9 **Q Was it George Hesse's responsibility 10:27**
10 **to insure that officers at the Ocean Beach Police**
11 **Department were handled in accordance with the**
12 **Civil Service obligations with respect to their**
13 **employment?**
14 MR. NOVIKOFF: Objection. 10:28
15 A I believe so. 10:28
16 **Q At that time, did George Hesse have 10:28**
17 **the authority to make decisions with respect to**
18 **hiring Ocean Beach police officers?**
19 A Yes. 10:28
20 **Q At that time, did George Hesse have 10:28**
21 **responsibility with respect to terminating Ocean**
22 **Beach police officers?**
23 MR. NOVIKOFF: Objection. 10:28
24 You can answer. 10:28
25 A I believe so. 10:28

<p style="text-align: right;">Page 17</p> <p>1 N. Rogers</p> <p>2 Q Did George Hesse tell you that he had 10:28</p> <p>3 terminated certain Ocean Beach police officers?</p> <p>4 MR. NOVIKOFF: Objection, asked and 10:28</p> <p>5 answered.</p> <p>6 You can answer. You can answer. 10:28</p> <p>7 A No, he did not. 10:28</p> <p>8 Q Did he tell you who those officers 10:28</p> <p>9 were?</p> <p>10 A I do not believe so, no. 10:28</p> <p>11 MR. GRAFF: Before we continue, 10:29</p> <p>12 Mr. Novikoff, an issue that we had addressed</p> <p>13 in past depositions is that there is some</p> <p>14 conflicting terminology with respect to the</p> <p>15 discontinuation of plaintiffs' employment.</p> <p>16 We understand that your position has 10:29</p> <p>17 been that they were not rehired. Our</p> <p>18 position has been that they were terminated.</p> <p>19 As in the past depositions, would you agree</p> <p>20 that for the purpose of this deposition</p> <p>21 today, we can refer to their employment</p> <p>22 ending and understand what --</p> <p>23 MR. NOVIKOFF: Yeah, I think -- I 10:29</p> <p>24 will respond to your question, I think the</p> <p>25 witness has definitely made a distinction</p>	<p style="text-align: right;">Page 19</p> <p>1 N. Rogers</p> <p>2 You can answer. 10:30</p> <p>3 THE WITNESS: Sorry? 10:30</p> <p>4 MR. NOVIKOFF: You can answer. 10:30</p> <p>5 A He said yes, he had. 10:30</p> <p>6 Q Did he tell you with whom at Civil 10:30</p> <p>7 Service he had communicated with respect to that</p> <p>8 matter?</p> <p>9 A No, he did not. 10:30</p> <p>10 Q Do you know who at Civil Service 10:30</p> <p>11 George Hesse communicated with in connection with</p> <p>12 that matter?</p> <p>13 A No. 10:30</p> <p>14 Q Did George Hesse tell you 10:30</p> <p>15 specifically who the officers were whose</p> <p>16 employment had ended?</p> <p>17 MR. NOVIKOFF: Objection, asked and 10:30</p> <p>18 answered.</p> <p>19 You can answer. 10:30</p> <p>20 A No. 10:31</p> <p>21 Q Did you at some point find out 10:31</p> <p>22 specifically who those officers were?</p> <p>23 MR. NOVIKOFF: Objection. 10:31</p> <p>24 You can answer. 10:31</p> <p>25 A At some point, you asked? 10:31</p>
<p style="text-align: right;">Page 18</p> <p>1 N. Rogers</p> <p>2 between what George Hesse said with regard</p> <p>3 to not rehiring and any communications that</p> <p>4 George Hesse had in this conversation about</p> <p>5 termination, so I think the witness has been</p> <p>6 clear that she in her head has a distinction</p> <p>7 between those two terms.</p> <p>8 However, for the purpose of this 10:29</p> <p>9 deposition, I think that if you ask the</p> <p>10 questions with regard to the end of the</p> <p>11 employment, I understand your position is</p> <p>12 that they have been terminated, and you</p> <p>13 understand our position is that they have</p> <p>14 not been rehired.</p> <p>15 MR. GRAFF: Thank you. 10:30</p> <p>16 Q Mayor Rogers, did you also understand 10:30</p> <p>17 what we were referring to --</p> <p>18 A Yes. 10:30</p> <p>19 Q -- with respect to that terminology? 10:30</p> <p>20 Thank you.</p> <p>21 What did George Hesse say in response 10:30</p> <p>22 to your question about whether he had cleared the</p> <p>23 decision to end certain officers' employment with</p> <p>24 Civil Service?</p> <p>25 MR. NOVIKOFF: Objection to the form. 10:30</p>	<p style="text-align: right;">Page 20</p> <p>1 N. Rogers</p> <p>2 Q During that conversation with George 10:31</p> <p>3 Hesse, did Mr. Hesse indicate to you that he had</p> <p>4 been named as a defendant in a lawsuit in</p> <p>5 connection with the ending of those officers'</p> <p>6 employment?</p> <p>7 MR. NOVIKOFF: Wait a minute, hold 10:31</p> <p>8 on. On this one I am going to have to</p> <p>9 speak.</p> <p>10 She is referring to a conversation, 10:31</p> <p>11 and you have only asked her about a</p> <p>12 conversation with George Hesse taking place</p> <p>13 in April of 2006. Your question now asks</p> <p>14 her, in that conversation did George Hesse</p> <p>15 tell you that he has been named as a</p> <p>16 defendant in a lawsuit involving these</p> <p>17 plaintiffs.</p> <p>18 Do you want to clarify your question? 10:31</p> <p>19 It makes no sense, because the lawsuit was</p> <p>20 not filed in April of 2006. Okay. I mean,</p> <p>21 that one I am just trying to help you on.</p> <p>22 BY MR. GRAFF: 10:32</p> <p>23 Q Mayor Rogers, earlier I had asked you 10:32</p> <p>24 what allegations George Hesse said had been</p> <p>25 brought against Ocean Beach by the plaintiffs in</p>

<p style="text-align: right;">Page 21</p> <p>1 N. Rogers</p> <p>2 this lawsuit. What allegations did he tell you</p> <p>3 that the officers were making in this conversation</p> <p>4 that we have been discussing?</p> <p>5 A He did not. 10:32</p> <p>6 MR. NOVIKOFF: Objection. And again, 10:32</p> <p>7 Counsel, I really don't want to speak, and</p> <p>8 you can put this down as the time over your</p> <p>9 seven hours that you are allotted to, and</p> <p>10 that was the basis of my original objection</p> <p>11 to the word "allegation," because it was</p> <p>12 improperly formed.</p> <p>13 Ms. Rogers answered your question as 10:32</p> <p>14 to what allegations. What she understood</p> <p>15 your word "allegations" to mean is what she</p> <p>16 understood it to mean, and she has answered</p> <p>17 your question, and then you spent ten</p> <p>18 minutes talking about the April, 2006</p> <p>19 conversation, which is completely</p> <p>20 appropriate.</p> <p>21 So, I go back to my original 10:33</p> <p>22 objection, you know, to the word</p> <p>23 "allegation."</p> <p>24 You can answer the question. And I 10:33</p> <p>25 won't speak again.</p>	<p style="text-align: right;">Page 23</p> <p>1 N. Rogers</p> <p>2 Q Other than saying hello, did you or 10:34</p> <p>3 George Hesse communicate anything else to each</p> <p>4 other at that time?</p> <p>5 MR. NOVIKOFF: Objection. 10:34</p> <p>6 THE WITNESS: Do I answer? 10:35</p> <p>7 MR. NOVIKOFF: Yes. Unless I 10:35</p> <p>8 instruct you not to answer, you are to</p> <p>9 answer every question.</p> <p>10 A Yes. He expressed condolences on the 10:35</p> <p>11 death of my husband, which had occurred in late</p> <p>12 July.</p> <p>13 Q Is that late July, 2008? 10:35</p> <p>14 A 2008. 10:35</p> <p>15 Q I'm sorry to hear that, Mayor Rogers. 10:35</p> <p>16 Other than the two conversations with 10:35</p> <p>17 George Hesse that we have already discussed this</p> <p>18 morning, have you had any other conversations with</p> <p>19 George Hesse about this lawsuit, other than in the</p> <p>20 presence of your attorneys?</p> <p>21 MR. NOVIKOFF: Objection to the form. 10:35</p> <p>22 You can answer the question. 10:35</p> <p>23 A No. 10:35</p> <p>24 Q Have you spoken with current 10:35</p> <p>25 Mayor Loeffler about this lawsuit, other than in</p>
<p style="text-align: right;">Page 22</p> <p>1 N. Rogers</p> <p>2 A Will you repeat the question now, 10:33</p> <p>3 please, so I know what you are saying.</p> <p>4 Q Did George Hesse in this conversation 10:33</p> <p>5 advise you that the officers whose employment had</p> <p>6 ended were making any allegations against Ocean</p> <p>7 Beach in connection with the fact that their</p> <p>8 employment had ended?</p> <p>9 A No. 10:33</p> <p>10 Q Other than what you have already 10:33</p> <p>11 testified to, is there anything else that George</p> <p>12 Hesse said to you that you can recall in that</p> <p>13 conversation about the circumstances surrounding</p> <p>14 the ending of those officers' employment?</p> <p>15 MR. NOVIKOFF: Objection. 10:33</p> <p>16 You can answer. 10:33</p> <p>17 A No. 10:33</p> <p>18 Q When is the last time that you spoke 10:34</p> <p>19 with George Hesse?</p> <p>20 A About a month ago. 10:34</p> <p>21 Q And in what context did you speak to 10:34</p> <p>22 George Hesse about a month ago?</p> <p>23 A On or about Columbus Day, I was 10:34</p> <p>24 closing up my unit, and I was on the deck, and</p> <p>25 George Hesse walked past and stopped to say hello.</p>	<p style="text-align: right;">Page 24</p> <p>1 N. Rogers</p> <p>2 the presence of attorneys?</p> <p>3 A Yes. 10:36</p> <p>4 Q And on how many occasions did you 10:36</p> <p>5 have such communications with Mayor Loeffler?</p> <p>6 A One that I can recall. 10:36</p> <p>7 Q And in substance, what was 10:36</p> <p>8 communicated to you and what did you communicate</p> <p>9 to Mayor Loeffler in that conversation?</p> <p>10 A He stopped by my condo in June of 10:36</p> <p>11 this year, 2008, to advise me with regard to a</p> <p>12 matter of the Fire Island Association.</p> <p>13 At that time, he merely mentioned 10:37</p> <p>14 that the lawsuit was progressing.</p> <p>15 Q Did you ask him what he meant by the 10:37</p> <p>16 lawsuit was progressing?</p> <p>17 A No. I assumed I knew, so I didn't 10:37</p> <p>18 ask him.</p> <p>19 Q And what did you assume that you knew 10:37</p> <p>20 based on that comment from George --</p> <p>21 Mayor Loeffler?</p> <p>22 A That it hadn't been resolved; 10:37</p> <p>23 therefore, it was in progress someplace.</p> <p>24 Q And what matter regarding the Fire 10:37</p> <p>25 Island Association did Mayor Loeffler advise you</p>

<p style="text-align: right;">Page 25</p> <p>1 N. Rogers</p> <p>2 of during that conversation?</p> <p>3 A It had to do with being a 10:37</p> <p>4 representative as an alternate to the Fire Island</p> <p>5 Association.</p> <p>6 Q To clarify, was that with respect to 10:38</p> <p>7 your being a representative as an alternate?</p> <p>8 A Yes. 10:38</p> <p>9 Q Have you had any conversations, other 10:38</p> <p>10 than in the presence of counsel, with Richard</p> <p>11 Besette regarding this lawsuit?</p> <p>12 A No. 10:38</p> <p>13 Q Have you had any conversations, other 10:38</p> <p>14 than in the presence of counsel, with Gary</p> <p>15 Besette regarding this lawsuit?</p> <p>16 A No. 10:38</p> <p>17 Q Have you had any conversations, other 10:38</p> <p>18 than in the presence of counsel, with Patrick</p> <p>19 Cherry regarding this lawsuit?</p> <p>20 MR. NOVIKOFF: Objection. 10:38</p> <p>21 You can answer. 10:38</p> <p>22 A No. 10:38</p> <p>23 Q To clarify, do you know more than one 10:38</p> <p>24 person named Patrick Cherry?</p> <p>25 MR. NOVIKOFF: Objection. I don't 10:38</p>	<p style="text-align: right;">Page 27</p> <p>1 N. Rogers</p> <p>2 Q And in what context did you have your 10:40</p> <p>3 most recent conversations as of that time with</p> <p>4 Frank Fiorillo?</p> <p>5 MR. NOVIKOFF: Objection. 10:40</p> <p>6 You can answer. 10:40</p> <p>7 A I believe that he assisted the mother 10:40</p> <p>8 of one of the owners of a condo in our Bay View</p> <p>9 Condos, which is where I live, at the time of the</p> <p>10 Memorial Day celebration and parade.</p> <p>11 Q As of April, 2006, did you have any 10:40</p> <p>12 information regarding Frank Fiorillo's performance</p> <p>13 as a police officer with Ocean Beach?</p> <p>14 MR. NOVIKOFF: Objection to the form. 10:41</p> <p>15 A No. 10:41</p> <p>16 Q Did you have any reason to think that 10:41</p> <p>17 he was not a good police officer at Ocean Beach as</p> <p>18 of that time?</p> <p>19 MR. NOVIKOFF: Objection to form. 10:41</p> <p>20 You can answer. 10:41</p> <p>21 A No, I had no reason. 10:41</p> <p>22 Q As of April, 2006, prior to that 10:41</p> <p>23 conversation with George Hesse, did you know who</p> <p>24 Kevin Lamm was?</p> <p>25 A Yes. 10:41</p>
<p style="text-align: right;">Page 26</p> <p>1 N. Rogers</p> <p>2 think you have established that she knows</p> <p>3 who Patrick Cherry is.</p> <p>4 THE WITNESS: Correct. Counsel -- 10:39</p> <p>5 Q You do not know anybody by the name 10:39</p> <p>6 of Patrick Cherry?</p> <p>7 A Correct. 10:39</p> <p>8 Q Thank you. 10:39</p> <p>9 Can you recall speaking with anyone 10:39</p> <p>10 else, other than in the presence of counsel, about</p> <p>11 this lawsuit?</p> <p>12 A Not that I can recall, no. 10:39</p> <p>13 Q In April, 2006, prior to that 10:39</p> <p>14 conversation with George Hesse that we have</p> <p>15 already discussed, did you know who Frank Fiorillo</p> <p>16 was?</p> <p>17 A Yes. 10:39</p> <p>18 Q And who did you know him to be? 10:39</p> <p>19 A A police officer. 10:39</p> <p>20 Q And that's a police officer at Ocean 10:39</p> <p>21 Beach?</p> <p>22 A Correct. 10:39</p> <p>23 Q Had you had any direct communications 10:40</p> <p>24 with Frank Fiorillo as of that time?</p> <p>25 A Yes. 10:40</p>	<p style="text-align: right;">Page 28</p> <p>1 N. Rogers</p> <p>2 Q And who did you know Kevin Lamm to be 10:41</p> <p>3 at that time?</p> <p>4 A A police officer in Ocean Beach. 10:41</p> <p>5 Q And did you have any knowledge 10:41</p> <p>6 concerning Kevin Lamm's performance as a police</p> <p>7 officer at Ocean Beach?</p> <p>8 MR. NOVIKOFF: Objection. 10:42</p> <p>9 You can answer. 10:42</p> <p>10 A No, I did not. 10:42</p> <p>11 Q Had you had any direct communications 10:42</p> <p>12 with Kevin Lamm as of that time?</p> <p>13 A Not to my recollection. 10:42</p> <p>14 Q Do you know how it is that you knew 10:42</p> <p>15 that Kevin Lamm was an officer at Ocean Beach?</p> <p>16 A I saw all the officers on frequent 10:42</p> <p>17 occasions walking the streets.</p> <p>18 Q As of that time, again, April, 2006, 10:42</p> <p>19 before the conversation with George Hesse, did you</p> <p>20 know who Edward Carter was?</p> <p>21 A Not specifically, no. 10:42</p> <p>22 Q Did you know anything about Ed Carter 10:42</p> <p>23 as of that time?</p> <p>24 MR. NOVIKOFF: Objection. 10:42</p> <p>25 You can answer. 10:42</p>

7 (Pages 25 to 28)

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<p>1 N. Rogers</p> <p>2 A No. 10:42</p> <p>3 Q As of that time, did you know who Tom 10:42</p> <p>4 Snyder was?</p> <p>5 A No. 10:42</p> <p>6 Q How long have you lived at the Condo 10:43</p> <p>7 Number 7 that you referred to earlier today?</p> <p>8 A Since 1987. 10:43</p> <p>9 Q And do you own that condo? 10:43</p> <p>10 MR. NOVIKOFF: Objection. What could 10:43</p> <p>11 possibly be the relevance of that,</p> <p>12 Counselor? I mean I will let her answer,</p> <p>13 but what could be the relevance?</p> <p>14 You can answer, Ms. Rogers. 10:43</p> <p>15 A The deed is in the name of my late 10:43</p> <p>16 husband, Charles A. Rogers.</p> <p>17 Q Other than that condo, do you or did 10:43</p> <p>18 your late husband own any other properties?</p> <p>19 MR. NOVIKOFF: Objection. Do not 10:43</p> <p>20 answer the question.</p> <p>21 Not specifically because I am 10:43</p> <p>22 concerned with the answer, Counselor. What</p> <p>23 does this have to do with this lawsuit? And</p> <p>24 if you explain it to me, I will let her</p> <p>25 answer it.</p>	<p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Okay. 10:44</p> <p>3 MR. GRAFF: No such statement has 10:44</p> <p>4 been provided. This question now goes to</p> <p>5 assets.</p> <p>6 MR. NOVIKOFF: You mean each 10:44</p> <p>7 particular person would provide a financial</p> <p>8 statement.</p> <p>9 MR. GRAFF: Correct. A financial 10:44</p> <p>10 disclosure statement to the plaintiffs that</p> <p>11 would identify their assets and worth.</p> <p>12 MR. NOVIKOFF: All right. Well, I 10:45</p> <p>13 would have thought that you would have sent</p> <p>14 a letter to me at some point in time</p> <p>15 indicating that those financial statements</p> <p>16 had not been provided to you prior to these</p> <p>17 depositions. But you haven't.</p> <p>18 But you can answer the question over 10:45</p> <p>19 my objection then.</p> <p>20 THE WITNESS: May I ask a question? 10:45</p> <p>21 MR. NOVIKOFF: Not until you answer 10:45</p> <p>22 that question, Mayor Rogers.</p> <p>23 A Yes. 10:45</p> <p>24 Q And what other properties are you 10:45</p> <p>25 referring to?</p>
Page 30	Page 32
<p>1 N. Rogers</p> <p>2 I will take this to the judge, 10:44</p> <p>3 because this is harassing and annoying.</p> <p>4 MR. GRAFF: This is not harassing and 10:44</p> <p>5 annoying. I do not in general want to</p> <p>6 engage in colloquy with you, but I will</p> <p>7 answer this question.</p> <p>8 MR. NOVIKOFF: Okay. 10:44</p> <p>9 MR. GRAFF: There was -- the date 10:44</p> <p>10 escapes me. There was a court conference in</p> <p>11 connection with plaintiffs' first request</p> <p>12 for production of documents from Ocean</p> <p>13 Beach.</p> <p>14 MR. NOVIKOFF: Okay. 10:44</p> <p>15 MR. GRAFF: There were many matters 10:44</p> <p>16 discussed at that conference --</p> <p>17 MR. NOVIKOFF: Okay. 10:44</p> <p>18 MR. GRAFF: -- which arose out of 10:44</p> <p>19 plaintiffs' motion to compel --</p> <p>20 MR. NOVIKOFF: Okay. 10:44</p> <p>21 MR. GRAFF: -- discovery responses. 10:44</p> <p>22 Among the items discussed was that Ocean</p> <p>23 Beach would be providing a financial</p> <p>24 statement with respect to the defendants in</p> <p>25 this case.</p>	<p>1 N. Rogers</p> <p>2 THE WITNESS: Now can I ask a 10:45</p> <p>3 question?</p> <p>4 MR. NOVIKOFF: No. You have to 10:45</p> <p>5 answer that question, and then we will stop.</p> <p>6 MR. GRAFF: If your question relates 10:45</p> <p>7 to whether or not your answer might violate</p> <p>8 attorney-client privilege, I --</p> <p>9 MR. NOVIKOFF: That won't be the 10:45</p> <p>10 reason.</p> <p>11 MR. GRAFF: Okay. 10:45</p> <p>12 Q Could you -- 10:45</p> <p>13 A Are you referring to Ocean Beach 10:45</p> <p>14 property or any property?</p> <p>15 Q Any properties that you or your 10:46</p> <p>16 husband owned or own.</p> <p>17 A We own -- I own a condo, another 10:46</p> <p>18 condo in the same unit -- in the same group of</p> <p>19 condos. Another unit. Sorry.</p> <p>20 Q Are there any other properties that 10:46</p> <p>21 either you or your late husband own?</p> <p>22 A I own a home in Queens, in Hollis, 10:46</p> <p>23 New York.</p> <p>24 Q Are there any other properties? 10:46</p> <p>25 A A timeshare in Marco Island, Florida. 10:47</p>

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1 N. Rogers

2 **Q Are there any other properties? 10:47**

3 A No. 10:47

4 May I take a break, please? 10:47

5 MR. NOVIKOFF: Yes, you may. 10:47

6 THE VIDEOGRAPHER: The time is now 10:47

7 10:47 a.m.

8 We are now off the record. 10:47

9 (Recess taken.) 10:54

10 THE VIDEOGRAPHER: The time is now 10:54

11 10:54 a.m.

12 We are now back on the record. 10:54

13 BY MR. GRAFF: 10:54

14 **Q Mayor Rogers, I would like to go back 10:54**

15 **to a question that I was asking shortly before we**

16 **took that break.**

17 **When I was asking you questions about 10:54**

18 **properties that you or your late husband own, to**

19 **clarify, are there other properties that you or**

20 **your husband are the part owners of or own a share**

21 **of less than total ownership?**

22 MR. NOVIKOFF: Objection to the form. 10:55

23 You can answer. 10:55

24 A Yes. 10:55

25 **Q Could you please identify those 10:55**

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1 N. Rogers

2 **properties.**

3 A One is an office building at Five 10:55

4 Shore Lane in Bay Shore. I think that is it.

5 That's it.

6 **Q And do you know what percentage of 10:55**

7 **that office building you own?**

8 MR. NOVIKOFF: Objection. 10:56

9 You can answer. 10:56

10 A My late husband owned 50 percent. I 10:56

11 owned 33 and a third percent.

12 **Q And do you know who owned the 10:56**

13 **remaining fraction of that building?**

14 A Yes. 10:56

15 **Q And who owns the remaining portion of 10:56**

16 **that building?**

17 A An estate in California. 10:56

18 **Q Do you know the name of that estate? 10:56**

19 A Yes. The name is Itkin. I-T-K-I-N. 10:56

20 MR. NOVIKOFF: Just answer yes or no. 10:56

21 THE WITNESS: Pardon me? 10:56

22 MR. NOVIKOFF: Just answer yes or no. 10:56

23 MR. GRAFF: Are you done? 10:56

24 MR. NOVIKOFF: For now. 10:56

25 BY MR. GRAFF: 10:56

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1 N. Rogers

2 **Q I think I may have missed a question 10:56**

3 **earlier. Going back to that conversation in**

4 **April, 2006, with George Hesse, do you recall what**

5 **George Hesse's title was at that time?**

6 A I believe it was deputy police chief. 10:57

7 **Q Are you finished with your answer? 10:57**

8 A Yes. 10:57

9 **Q And as of April, 2006, did you know 10:57**

10 **who Joseph Nofi was?**

11 A No. 10:57

12 **Q During that conversation that you had 10:57**

13 **with George Hesse in April, 2006, do you recall if**

14 **he was wearing his police uniform?**

15 A I don't believe so. 10:58

16 **Q Earlier you had referred to an 10:58**

17 **incident involving Frank Fiorillo providing**

18 **assistance to a woman who was ill. Do you recall**

19 **what I am referring to?**

20 MR. NOVIKOFF: Objection. Her 10:58

21 testimony is what it was.

22 You can answer. 10:58

23 A Yes. 10:58

24 **Q Do you recall the name of the 10:58**

25 **specific woman who Frank Fiorillo had assisted?**

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1 N. Rogers

2 A First name only. 10:58

3 **Q And what was that individual's first 10:58**

4 **name?**

5 A Peggy. 10:58

6 **Q To your knowledge, is she or has she 10:58**

7 **ever been a resident of Ocean Beach?**

8 A She, no. Her daughter, yes. 10:59

9 **Q And what is her -- 10:59**

10 MR. NOVIKOFF: Just answer the 10:59

11 question.

12 THE WITNESS: Sorry, excuse me. 10:59

13 BY MR. GRAFF: 10:59

14 **Q What is her daughter's name? 10:59**

15 A Tru Hampton. 10:59

16 THE WITNESS: Sorry. 10:59

17 **Q And have you ever made any statements 10:59**

18 **to Frank Fiorillo concerning his performance as a**

19 **police officer at Ocean Beach?**

20 MR. NOVIKOFF: Objection, asked and 10:59

21 answered.

22 You can answer. 10:59

23 A Not that I recall. 10:59

24 **Q Has Ocean Beach ever provided you 11:00**

25 **with housing accommodations?**

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<p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: You mean the land 11:00</p> <p>3 known as Ocean Beach or --</p> <p>4 MR. GRAFF: The Village of Ocean 11:00</p> <p>5 Beach.</p> <p>6 A No. 11:00</p> <p>7 Q Has the Village of Ocean Beach ever 11:00</p> <p>8 provided you with a housing allowance or funds</p> <p>9 towards your housing?</p> <p>10 MR. NOVIKOFF: Objection. 11:00</p> <p>11 A No. 11:00</p> <p>12 Q Have you ever been convicted of a 11:00</p> <p>13 crime?</p> <p>14 A No. 11:00</p> <p>15 Q Do you have any children? 11:00</p> <p>16 A Yes. 11:00</p> <p>17 Q How many children do you have? 11:00</p> <p>18 MR. NOVIKOFF: Is that on the list? 11:01</p> <p>19 I'm sorry.</p> <p>20 You can answer. 11:01</p> <p>21 A Two. 11:01</p> <p>22 Q And what are their ages, please? 11:01</p> <p>23 A Sixty and 62. 11:01</p> <p>24 Q Are either of your children employed? 11:01</p> <p>25 MR. NOVIKOFF: Objection. Ask her if 11:01</p>	<p>1 N. Rogers</p> <p>2 A No. 11:02</p> <p>3 Q Have either of your children ever 11:02</p> <p>4 been employed by Ocean Beach?</p> <p>5 A No. 11:02</p> <p>6 Q Was your late husband ever employed 11:02</p> <p>7 by Ocean Beach?</p> <p>8 A No. 11:02</p> <p>9 Q Other than your late husband, have 11:02</p> <p>10 you ever been married to anyone else?</p> <p>11 MR. NOVIKOFF: Not even a chance. 11:02</p> <p>12 Don't answer that. 11:02</p> <p>13 I don't even know what her answer is, 11:02</p> <p>14 but this is getting close to me making a</p> <p>15 phone call to the judge. Can you explain</p> <p>16 any legitimate basis to ask that question?</p> <p>17 Does it have anything to do with your</p> <p>18 punitive damages claim as to her assets?</p> <p>19 Does it have anything to do with any</p> <p>20 allegation in this complaint, whether this</p> <p>21 woman was previously married? That is</p> <p>22 abusive.</p> <p>23 MR. GRAFF: I disagree, and I believe 11:03</p> <p>24 that your speaking objection here --</p> <p>25 MR. NOVIKOFF: Well, I think in this 11:03</p>
Page 38	Page 40
<p>1 N. Rogers</p> <p>2 either of her children are employed by the</p> <p>3 Village of Ocean Beach or Suffolk County and</p> <p>4 I will permit her to answer that question.</p> <p>5 Q Are either of your children employed 11:01</p> <p>6 by any government or municipality?</p> <p>7 MR. NOVIKOFF: Objection. Don't 11:01</p> <p>8 answer.</p> <p>9 Ask her if her children are employed 11:01</p> <p>10 by Ocean Beach and/or Suffolk County and I</p> <p>11 will allow her to answer that question.</p> <p>12 Otherwise, there is absolutely no relevancy</p> <p>13 to that question.</p> <p>14 MR. GRAFF: Mr. Novikoff -- 11:02</p> <p>15 MR. NOVIKOFF: I understand your 11:02</p> <p>16 position, Counselor. This is becoming</p> <p>17 harassing, abusive and annoying.</p> <p>18 MR. GRAFF: We will mark that for a 11:02</p> <p>19 ruling.</p> <p>20 MR. NOVIKOFF: Okay. 11:02</p> <p>21 Q Mayor Rogers, are either of your 11:02</p> <p>22 children employed by Suffolk County?</p> <p>23 A No. 11:02</p> <p>24 Q Are either of your children employed 11:02</p> <p>25 by Ocean Beach?</p>	<p>1 N. Rogers</p> <p>2 regard it's appropriate.</p> <p>3 How is that question remotely 11:03</p> <p>4 relevant to anything involving this lawsuit?</p> <p>5 MR. GRAFF: Mr. Novikoff -- 11:03</p> <p>6 MR. NOVIKOFF: Explain that to me, 11:03</p> <p>7 because you are going to have to explain</p> <p>8 that to the judge.</p> <p>9 MR. GRAFF: Mr. Novikoff, there is no 11:03</p> <p>10 reason to raise your voice.</p> <p>11 MR. NOVIKOFF: I am angry at that 11:03</p> <p>12 question, because you are an officer of the</p> <p>13 Court, and you have wide latitude to ask</p> <p>14 irrelevant questions, and I understand that.</p> <p>15 And I understand I have to let this woman</p> <p>16 answer those questions.</p> <p>17 But there is -- I cannot understand 11:03</p> <p>18 the remote relevancy of that question, and I</p> <p>19 am waiting for you to explain it.</p> <p>20 MR. GRAFF: Mr. Novikoff, I will 11:03</p> <p>21 explain it, but again, I note that your</p> <p>22 shouting and pointing --</p> <p>23 MR. NOVIKOFF: I am. 11:03</p> <p>24 MR. GRAFF: -- and speaking objection 11:03</p> <p>25 and this colloquy are improper.</p>

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<p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Add it to the seven 11:03</p> <p>3 hours then, respectfully. What is the</p> <p>4 relevancy of that question, whether she was</p> <p>5 previously married?</p> <p>6 MR. GRAFF: If she was previously 11:04</p> <p>7 married to somebody who's connected to any</p> <p>8 of the individuals who are involved in this</p> <p>9 case --</p> <p>10 MR. NOVIKOFF: Then why don't you ask 11:04</p> <p>11 her how long she was married to her late</p> <p>12 husband? Because I can guarantee you if it</p> <p>13 was more than 30 years, then your next</p> <p>14 question is completely irrelevant.</p> <p>15 MR. GRAFF: Can we mark the dispute? 11:04</p> <p>16 Q How long were you married to your 11:04</p> <p>17 late husband?</p> <p>18 A Four months less than 27 years. 11:04</p> <p>19 MR. NOVIKOFF: Still want to ask that 11:04</p> <p>20 question? Still want to mark it for a</p> <p>21 ruling?</p> <p>22 MR. GRAFF: Counsel, the transcript 11:04</p> <p>23 and the record is what it is.</p> <p>24 MR. NOVIKOFF: It is. 11:04</p> <p>25 MR. GRAFF: At this point I don't 11:04</p>	<p>1 N. Rogers</p> <p>2 MS. McEACHIN: Counsel, I'm sorry. 11:06</p> <p>3 Can you just get a time frame? When are we</p> <p>4 talking about? Is this recently or is this</p> <p>5 20 years ago?</p> <p>6 MR. NOVIKOFF: Thank you, Counselor. 11:06</p> <p>7 I was tired of hearing myself speak.</p> <p>8 BY MR. GRAFF: 11:06</p> <p>9 Q I will ask you, please, could we 11:06</p> <p>10 clarify, during what period of time were you</p> <p>11 self-employed in the real estate business?</p> <p>12 MR. NOVIKOFF: It's not we clarify, 11:06</p> <p>13 it's you clarify.</p> <p>14 MR. GRAFF: Was that an objection? 11:06</p> <p>15 MR. NOVIKOFF: No, it was a comment. 11:06</p> <p>16 MR. GRAFF: Okay. 11:06</p> <p>17 MR. NOVIKOFF: Don't speak to my 11:06</p> <p>18 client, just ask her a question.</p> <p>19 MR. GRAFF: Mr. Novikoff, your 11:06</p> <p>20 comments are not proper.</p> <p>21 MR. NOVIKOFF: Okay. 11:06</p> <p>22 A I have been a real estate broker 11:06</p> <p>23 since 1963.</p> <p>24 Q Are you presently a real estate 11:07</p> <p>25 broker?</p>
Page 42	Page 44
<p>1 N. Rogers</p> <p>2 even think you are objecting. I have not</p> <p>3 asked a question. You have made your</p> <p>4 position clear at improper length. I am</p> <p>5 going to move on.</p> <p>6 MR. NOVIKOFF: Okay. 11:05</p> <p>7 BY MR. GRAFF: 11:05</p> <p>8 Q Mayor Rogers, other than as Mayor of 11:05</p> <p>9 Ocean Beach, have you ever been employed?</p> <p>10 A Yes. 11:05</p> <p>11 Q And what was your most recent 11:05</p> <p>12 employer other than Ocean Beach?</p> <p>13 A Self. 11:05</p> <p>14 Q Other than self-employment, have you 11:05</p> <p>15 ever been employed?</p> <p>16 MR. NOVIKOFF: Objection. 11:05</p> <p>17 A Yes. 11:05</p> <p>18 Q And in what business were you 11:05</p> <p>19 self-employed?</p> <p>20 A Real estate. 11:05</p> <p>21 Q And did you have any employees in 11:06</p> <p>22 connection with that real estate business?</p> <p>23 A Yes. 11:06</p> <p>24 Q Where was that real estate business 11:06</p> <p>25 located?</p>	<p>1 N. Rogers</p> <p>2 A Yes. 11:07</p> <p>3 Q Does the real estate business at 11:07</p> <p>4 which you are self-employed have a name?</p> <p>5 A Yes. 11:07</p> <p>6 Q What is it called, please? 11:07</p> <p>7 A Leon A. Katz Realty. Leon A. Katz 11:07</p> <p>8 Realty.</p> <p>9 Q Do you have any partners in that real 11:07</p> <p>10 estate business?</p> <p>11 A No. 11:07</p> <p>12 Q Does that business have an office? 11:07</p> <p>13 A Yes. 11:07</p> <p>14 MR. NOVIKOFF: Just note my objection 11:07</p> <p>15 to this entire line of questioning. I</p> <p>16 believe it is patently irrelevant. I</p> <p>17 believe counsel is engaging in a fishing</p> <p>18 expedition with absolutely no good faith</p> <p>19 basis to ask these questions.</p> <p>20 But nevertheless, I will permit you 11:08</p> <p>21 to answer these questions.</p> <p>22 BY MR. GRAFF: 11:08</p> <p>23 Q Mayor Rogers, who is Leon A. Katz? 11:08</p> <p>24 A My first husband. 11:08</p> <p>25 Q And did Mr. Katz found that real 11:08</p>

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<p>1 N. Rogers</p> <p>2 estate business?</p> <p>3 A Yes. 11:08</p> <p>4 Q Sorry, I am not sure I got your 11:08</p> <p>5 answer to whether that real estate business has an</p> <p>6 office.</p> <p>7 MR. NOVIKOFF: Is that a -- 11:08</p> <p>8 A Yes. 11:08</p> <p>9 MR. NOVIKOFF: -- question or is that 11:08</p> <p>10 a statement? That wasn't a question. Is</p> <p>11 there a question?</p> <p>12 Q Is that yes, it did have an office? 11:08</p> <p>13 MR. NOVIKOFF: There was no question. 11:08</p> <p>14 You were making a statement about why --</p> <p>15 MR. GRAFF: I just asked -- 11:09</p> <p>16 MR. NOVIKOFF: -- you were sorry. 11:09</p> <p>17 MR. GRAFF: I just asked a question, 11:09</p> <p>18 Mr. Novikoff.</p> <p>19 Q Is that yes, your real estate 11:09</p> <p>20 office -- the real estate business did have an</p> <p>21 office?</p> <p>22 A Yes. 11:09</p> <p>23 Q Does it currently have an office? 11:09</p> <p>24 A Yes. 11:09</p> <p>25 Q Where is that office located, please? 11:09</p>	<p>1 N. Rogers</p> <p>2 have a geographic area in which it conducts its</p> <p>3 real estate business?</p> <p>4 MR. NOVIKOFF: Objection. 11:11</p> <p>5 A No. 11:11</p> <p>6 Q Does it deal in real estate 11:11</p> <p>7 transactions beyond New York State?</p> <p>8 MR. NOVIKOFF: Objection. 11:11</p> <p>9 A No. 11:11</p> <p>10 Q Does it deal with real estate 11:11</p> <p>11 transactions within Ocean Beach?</p> <p>12 MR. NOVIKOFF: Objection. 11:11</p> <p>13 A No. 11:11</p> <p>14 Q Does it deal in real estate 11:11</p> <p>15 transactions within Suffolk County?</p> <p>16 MR. NOVIKOFF: Objection. 11:11</p> <p>17 A No. 11:11</p> <p>18 Q Could you describe the areas in which 11:11</p> <p>19 Leon A. Katz Realty generally transacts real</p> <p>20 estate business?</p> <p>21 MR. NOVIKOFF: Objection. 11:12</p> <p>22 A Limited management. 11:12</p> <p>23 Q I'm sorry, maybe I -- 11:12</p> <p>24 A Limited property management. 11:12</p> <p>25 Q And where are the properties that it 11:12</p>
Page 46	Page 48
<p>1 N. Rogers</p> <p>2 A In my home, in Queens. 11:09</p> <p>3 Q Other than yourself, does anybody 11:09</p> <p>4 else work out of that office?</p> <p>5 A Yes. 11:09</p> <p>6 Q Who else works out of that office, 11:09</p> <p>7 please?</p> <p>8 A One woman. 11:09</p> <p>9 Q Could you identify her name, please? 11:10</p> <p>10 A Isabel Torres. 11:10</p> <p>11 Q And do you know what the nature of 11:10</p> <p>12 Ms. Torres' work is?</p> <p>13 A Clerical. 11:10</p> <p>14 Q Did Ms. Torres work for the Leon A. 11:10</p> <p>15 Katz Realty business?</p> <p>16 A Yes. 11:10</p> <p>17 Q Other than in connection with the 11:10</p> <p>18 Leon A. Katz Realty business, were you employed in</p> <p>19 any other capacity during your employment as Mayor</p> <p>20 of Ocean Beach?</p> <p>21 MR. NOVIKOFF: Objection. Asked and 11:10</p> <p>22 answered.</p> <p>23 But you can answer. 11:10</p> <p>24 A No. 11:11</p> <p>25 Q Does the Leon A. Katz Realty business 11:11</p>	<p>1 N. Rogers</p> <p>2 manages located?</p> <p>3 MR. NOVIKOFF: Objection. 11:12</p> <p>4 A Manhattan. 11:12</p> <p>5 Q And how many properties does it 11:12</p> <p>6 manage in Manhattan?</p> <p>7 A One. 11:12</p> <p>8 Q And where is that property located? 11:12</p> <p>9 A 889 Ninth Avenue. 11:12</p> <p>10 Q Other than the property at 889 Ninth 11:12</p> <p>11 Avenue, and the properties that you have already</p> <p>12 identified today, are there any other properties</p> <p>13 that you or a business acting on your behalf</p> <p>14 manages?</p> <p>15 MR. NOVIKOFF: Objection, compound. 11:13</p> <p>16 A No. 11:13</p> <p>17 Q Have you ever been a party in a 11:13</p> <p>18 lawsuit, other than this lawsuit?</p> <p>19 A No. 11:13</p> <p>20 Q Have you ever been a defendant in a 11:13</p> <p>21 lawsuit, other than this lawsuit?</p> <p>22 MR. NOVIKOFF: Ms. -- 11:13</p> <p>23 A No. 11:13</p> <p>24 MR. NOVIKOFF: -- Rogers individually 11:13</p> <p>25 or Ms. Rogers in her official capacity as</p>

<p style="text-align: right;">Page 49</p> <p>1 N. Rogers</p> <p>2 either a trustee or Mayor of the Village?</p> <p>3 MR. GRAFF: In either capacity. 11:13</p> <p>4 MR. NOVIKOFF: Objection, compound. 11:14</p> <p>5 A Not that I know. 11:14</p> <p>6 Q Other than this deposition today, 11:14</p> <p>7 have you, on any other occasions, testified under</p> <p>8 oath?</p> <p>9 A Not that I can recall, no. 11:14</p> <p>10 Q Has any grievance been filed against 11:14</p> <p>11 you in connection with your employment or service</p> <p>12 as Mayor of Ocean Beach?</p> <p>13 MR. NOVIKOFF: Objection, form. 11:14</p> <p>14 A One grievance that I can recall. 11:15</p> <p>15 Q And did that grievance relate to an 11:15</p> <p>16 employee at Ocean Beach?</p> <p>17 A No. 11:15</p> <p>18 Q Who did that -- what -- who did that 11:15</p> <p>19 grievance relate to?</p> <p>20 A A homeowner. 11:15</p> <p>21 Q And in substance, what did that 11:15</p> <p>22 homeowner allege as the basis for that grievance?</p> <p>23 MR. NOVIKOFF: Objection, form. 11:15</p> <p>24 A I can't recall the exact allegation. 11:16</p> <p>25 Q Can you recall the general nature of 11:16</p>	<p style="text-align: right;">Page 51</p> <p>1 N. Rogers</p> <p>2 A The commission was a hearing body. 11:18</p> <p>3 New York City Civil Service Commission was a</p> <p>4 hearing body.</p> <p>5 Q Are you finished? 11:18</p> <p>6 A Yes. 11:18</p> <p>7 Q And what were your duties in 11:18</p> <p>8 connection with your employment on the New York</p> <p>9 City Civil Service Commission?</p> <p>10 A To hear complaints against the City 11:18</p> <p>11 and/or its departments.</p> <p>12 Q Those complaints by Civil Service 11:18</p> <p>13 employees of the City?</p> <p>14 MR. NOVIKOFF: Is that a question or 11:18</p> <p>15 a statement? Objection.</p> <p>16 MR. GRAFF: It was a question. 11:18</p> <p>17 MR. NOVIKOFF: Form. 11:19</p> <p>18 A Yes. 11:19</p> <p>19 Q And when you would hear complaints of 11:19</p> <p>20 that nature, was it your role to make any sort of</p> <p>21 determination with respect to those complaints?</p> <p>22 A Yes. 11:19</p> <p>23 Q During your employment as Mayor of 11:19</p> <p>24 Ocean Beach -- first of all, when did you become</p> <p>25 Mayor of Ocean Beach?</p>
<p style="text-align: right;">Page 50</p> <p>1 N. Rogers</p> <p>2 the allegation?</p> <p>3 MR. NOVIKOFF: Objection. 11:16</p> <p>4 A It had to do with the interpretation 11:16</p> <p>5 of some zoning regulations that -- that's all I</p> <p>6 can recall.</p> <p>7 Q When was the most recent time that 11:17</p> <p>8 you were employed in a capacity other than</p> <p>9 self-employment?</p> <p>10 A 1983. 11:17</p> <p>11 Q And who was your employer at that 11:17</p> <p>12 time?</p> <p>13 A The City of New York. 11:17</p> <p>14 Q And what position did you hold at 11:17</p> <p>15 that time?</p> <p>16 A A member of the New York City Civil 11:17</p> <p>17 Service Commission.</p> <p>18 Q And was that the former -- the formal 11:17</p> <p>19 title of that position?</p> <p>20 MR. NOVIKOFF: Objection, form. 11:17</p> <p>21 A Yes. 11:17</p> <p>22 Q And what were your duties in your 11:17</p> <p>23 capacity as a member of the New York Civil Service</p> <p>24 Commission?</p> <p>25 MR. NOVIKOFF: Objection, form. 11:18</p>	<p style="text-align: right;">Page 52</p> <p>1 N. Rogers</p> <p>2 A In 1998. 11:19</p> <p>3 Q And prior to becoming Mayor of Ocean 11:19</p> <p>4 Beach, did you hold any other position with the</p> <p>5 Village of Ocean Beach?</p> <p>6 A Yes. 11:19</p> <p>7 Q And what position did you hold 11:19</p> <p>8 immediately prior to becoming Mayor?</p> <p>9 A Trustee. 11:20</p> <p>10 Q And during what period of time did 11:20</p> <p>11 you serve as a trustee?</p> <p>12 A For seven years prior to 1998, 11:20</p> <p>13 starting in 1991.</p> <p>14 Q And prior to beginning your service 11:20</p> <p>15 as a trustee in 1991, did you hold any other</p> <p>16 position with Ocean Beach?</p> <p>17 A No. 11:20</p> <p>18 Q Did you run in an election for the 11:20</p> <p>19 position of trustee of Ocean Beach, when you first</p> <p>20 obtained that position?</p> <p>21 A Yes. 11:20</p> <p>22 Q Do you know who was eligible or what 11:20</p> <p>23 categories of people were eligible to vote in that</p> <p>24 first election?</p> <p>25 MR. NOVIKOFF: Objection, calls for a 11:20</p>

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<p>1 N. Rogers</p> <p>2 legal conclusion.</p> <p>3 You can answer. 11:20</p> <p>4 A Registered voters in Ocean Beach. 11:20</p> <p>5 Q Do you know how many registered 11:21</p> <p>6 voters there were in Ocean Beach at that time?</p> <p>7 MR. NOVIKOFF: What year are we 11:21</p> <p>8 talking about?</p> <p>9 MR. GRAFF: In connection with the 11:21</p> <p>10 election to trustee that she began serving</p> <p>11 in 1991.</p> <p>12 MR. NOVIKOFF: The first time? Okay. 11:21</p> <p>13 The first time you were elected. 11:21</p> <p>14 A Perhaps 500. 11:21</p> <p>15 MR. NOVIKOFF: Don't guess. 11:21</p> <p>16 A I don't know the exact number. 11:21</p> <p>17 MR. NOVIKOFF: Then that is your 11:21</p> <p>18 answer.</p> <p>19 THE WITNESS: Thank you. 11:21</p> <p>20 Q During your final term as Mayor, do 11:21</p> <p>21 you know approximately how many registered voters</p> <p>22 were in Ocean Beach?</p> <p>23 MR. NOVIKOFF: Objection. 11:21</p> <p>24 Q Eligible to vote in Ocean Beach. 11:21</p> <p>25 MR. NOVIKOFF: Objection to the form 11:21</p>	<p>1 N. Rogers</p> <p>2 individuals who ran for that position other than</p> <p>3 you and John Moran?</p> <p>4 MR. NOVIKOFF: Objection, asked and 11:23</p> <p>5 answered.</p> <p>6 You can answer. 11:23</p> <p>7 A I believe Norma Daniels ran also. 11:23</p> <p>8 Q Do you recall if there was anyone 11:23</p> <p>9 other than the people you have identified who ran</p> <p>10 for that position at that time?</p> <p>11 MR. NOVIKOFF: Objection. 11:23</p> <p>12 A There were others, but I don't recall 11:23</p> <p>13 who.</p> <p>14 Q And did you serve more than one term 11:23</p> <p>15 as trustee of Ocean Beach?</p> <p>16 A Yes. 11:23</p> <p>17 Q How many terms did you serve? 11:23</p> <p>18 A One and three-quarters. 11:24</p> <p>19 Q And as your first term was 11:24</p> <p>20 concluding, did you run in an election to be</p> <p>21 re-elected for another term as trustee of Ocean</p> <p>22 Beach?</p> <p>23 A Yes. 11:24</p> <p>24 Q Did anyone run against you for that 11:24</p> <p>25 position in that election?</p>
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<p>1 N. Rogers</p> <p>2 of the question.</p> <p>3 You can answer. 11:21</p> <p>4 A Over 700. 11:21</p> <p>5 Q In 1991, when you ran for trustee of 11:22</p> <p>6 Ocean Beach, did you run against an incumbent who</p> <p>7 had held that position?</p> <p>8 MR. NOVIKOFF: Objection, form. 11:22</p> <p>9 You can answer. 11:22</p> <p>10 A Yes. I believe so, yes. 11:22</p> <p>11 Q And what incumbent was that? 11:22</p> <p>12 THE WITNESS: I can't answer the 11:22</p> <p>13 question in the form it was asked. I'm</p> <p>14 sorry.</p> <p>15 MR. NOVIKOFF: Then direct that to 11:22</p> <p>16 Mr. Graff.</p> <p>17 BY MR. GRAFF: 11:22</p> <p>18 Q Can you identify anybody who ran 11:22</p> <p>19 against you or you ran against in your first</p> <p>20 election to the position of trustee of Ocean</p> <p>21 Beach?</p> <p>22 MR. NOVIKOFF: Objection to the form. 11:22</p> <p>23 A I believe there was a gentleman named 11:23</p> <p>24 John Moran.</p> <p>25 Q Do you recall if there were any other 11:23</p>	<p>1 N. Rogers</p> <p>2 A Yes. 11:24</p> <p>3 Q Can you identify anyone who ran 11:24</p> <p>4 against you in that elects?</p> <p>5 A I do not recall the people who were 11:24</p> <p>6 running.</p> <p>7 Q And why did you serve only 11:24</p> <p>8 three-quarters of that second term?</p> <p>9 A Because I ran for Mayor before my 11:24</p> <p>10 term was completed.</p> <p>11 Q And who, if anyone, did you run 11:24</p> <p>12 against for Mayor at that time?</p> <p>13 A Paul Pugliese. P-U-G-L, I think it's 11:24</p> <p>14 I-A-S-E.</p> <p>15 Q Other than you and Mr. Pugliese, do 11:25</p> <p>16 you recall whether anyone else ran for Mayor of</p> <p>17 Ocean Beach in that election?</p> <p>18 A Do I recall? Yes, I recall. 11:25</p> <p>19 Q Can you identify -- 11:25</p> <p>20 A Nobody else ran. 11:25</p> <p>21 Q Other than you and Mr. Pugliese? 11:25</p> <p>22 MR. NOVIKOFF: Objection. 11:25</p> <p>23 A Correct. 11:25</p> <p>24 Q Did you serve more than one term as 11:25</p> <p>25 Mayor of Ocean Beach?</p>

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<p>1 N. Rogers</p> <p>2 A Yes. 11:25</p> <p>3 Q How many terms did you serve? 11:25</p> <p>4 A Two. 11:25</p> <p>5 Q When you ran for re-election to a 11:25</p> <p>6 second term as Mayor of Ocean Beach, did anyone</p> <p>7 run against you?</p> <p>8 A Yes. 11:26</p> <p>9 Q Can you identify who ran against you 11:26</p> <p>10 in that election?</p> <p>11 A Kathy Wikoff. 11:26</p> <p>12 Q Is Ms. Wikoff the only person who ran 11:26</p> <p>13 against you in your campaign for re-election as</p> <p>14 Mayor of Ocean Beach?</p> <p>15 A Yes. 11:26</p> <p>16 Q Did you -- strike that. 11:26</p> <p>17 Were you affiliated with any 11:26</p> <p>18 political party in connection with any of your</p> <p>19 elections to positions at Ocean Beach?</p> <p>20 A Yes. 11:26</p> <p>21 Q Were you affiliated with more than 11:26</p> <p>22 one political party for any -- for those</p> <p>23 elections?</p> <p>24 A No. 11:26</p> <p>25 Q And what party were you affiliated 11:26</p>	<p>1 N. Rogers</p> <p>2 this citizen of the United States what her</p> <p>3 political registration is, and that is an</p> <p>4 inappropriate question to ask.</p> <p>5 MR. GRAFF: When you say 11:27</p> <p>6 "inappropriate" -- Mr. Novikoff, if we are</p> <p>7 going to have a colloquy on this issue, I</p> <p>8 would like to clarify, can we note that that</p> <p>9 time will not count towards the hour total?</p> <p>10 MR. NOVIKOFF: Yeah, on this one, 11:28</p> <p>11 sure.</p> <p>12 MR. GRAFF: What is your basis for 11:28</p> <p>13 stating that it is inappropriate?</p> <p>14 MR. NOVIKOFF: In my opinion, no 11:28</p> <p>15 citizen of the United States has to under</p> <p>16 oath testify as to what their political</p> <p>17 affiliation is or registration, unless that</p> <p>18 is an issue that is directly placed in this</p> <p>19 lawsuit. And I don't believe it is.</p> <p>20 MR. GRAFF: I understand that there 11:28</p> <p>21 are certain testimonial privileges, such as</p> <p>22 the Fifth Amendment right against</p> <p>23 self-incrimination.</p> <p>24 MR. NOVIKOFF: Counsel, have you my 11:28</p> <p>25 objection. If you want to make -- mark it</p>
Page 58	Page 60
<p>1 N. Rogers</p> <p>2 with?</p> <p>3 MR. NOVIKOFF: Objection. I believe 11:26</p> <p>4 the witness has a First Amendment right not</p> <p>5 to answer what party she was affiliated with</p> <p>6 at any given time in her life.</p> <p>7 If the question is, did she run on a 11:27</p> <p>8 platform of a particular party, that is</p> <p>9 appropriate. To ask the witness what party</p> <p>10 she was affiliated with, no good.</p> <p>11 THE WITNESS: Am I to answer? 11:27</p> <p>12 MR. NOVIKOFF: No. 11:27</p> <p>13 You can ask her if she ran on the 11:27</p> <p>14 Republican ticket, Democratic ticket or any</p> <p>15 other ticket. But to ask her what party she</p> <p>16 was affiliated with, no.</p> <p>17 MR. GRAFF: Mr. Novikoff, I do not 11:27</p> <p>18 agree that your objection has merit. And I</p> <p>19 certainly believe that you are again, as the</p> <p>20 record will reflect, speaking at greater</p> <p>21 length than the facts that you intended to</p> <p>22 communicated warranted. That said --</p> <p>23 MR. NOVIKOFF: I just want the judge 11:27</p> <p>24 to know when you make your motion that I am</p> <p>25 objecting on the grounds that you are asking</p>	<p>1 N. Rogers</p> <p>2 for a ruling and make your motion at the end</p> <p>3 of the deposition, I will be more than happy</p> <p>4 to bring Ms. Rogers back to answer that</p> <p>5 question if the judge should so rule.</p> <p>6 MR. GRAFF: Okay. And to clarify, 11:28</p> <p>7 you had started your answer by stating it is</p> <p>8 your opinion. Is that a matter of opinion,</p> <p>9 or do you believe that opinion is grounded</p> <p>10 in law?</p> <p>11 MR. NOVIKOFF: I am not being 11:29</p> <p>12 deposed. You can go ask the question.</p> <p>13 MR. GRAFF: Okay. 11:29</p> <p>14 MR. NOVIKOFF: You got my -- the 11:29</p> <p>15 court reporter is excellent. She has taken</p> <p>16 down every single word that I have spoken.</p> <p>17 The videographer, I'm sure, is excellent and</p> <p>18 I am sure the camera has taken down every</p> <p>19 single word that I have spoken.</p> <p>20 You have my objection. You can ask 11:29</p> <p>21 the witness a question.</p> <p>22 MR. GRAFF: Okay. And if we can note 11:29</p> <p>23 this time obviously will now be back on the</p> <p>24 seven-hour clock.</p> <p>25 MR. NOVIKOFF: Yes. You now have 11:29</p>

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1 N. Rogers
2 seven hours and two minutes.
3 BY MR. GRAFF: 11:29
4 **Q Mayor Rogers, did you run on a party 11:29**
5 **platform in any of your elections at Ocean Beach?**
6 A Yes. 11:29
7 **Q And what party? 11:29**
8 A The Unity Party. 11:29
9 **Q I'm actually not familiar with the 11:29**
10 **Unity Party. Could you describe generally what**
11 **that party platform consists of.**
12 A It was a local affiliation of people 11:30
13 in Ocean Beach and only Ocean Beach for purposes
14 of running for office.
15 **Q And did -- were you a candidate on 11:30**
16 **the party platform of the Unity Party in**
17 **connection with all of your elections at Ocean**
18 **Beach?**
19 A Yes. 11:30
20 **Q Does the Unity Party still exist 11:30**
21 **today?**
22 A I don't believe so. 11:30
23 **Q Do you know when it ceased to exist? 11:30**
24 A Not specifically, no. 11:30
25 MR. GRAFF: Mr. Jemal, I'm going to 11:31

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1 N. Rogers
2 note for the record that you have on
3 multiple occasions, most recently in the
4 last few sentences -- seconds, made sighs
5 and given other indications that you are
6 unsatisfied with the conduct of this
7 deposition. I believe that is disruptive
8 and improper. I would ask for you to
9 refrain from doing that.
10 MR. NOVIKOFF: I dispute your 11:31
11 characterization of Mr. Jemal's conduct at
12 this deposition. Move on, Counselor.
13 BY MR. GRAFF: 11:31
14 **Q Do you know approximately how many 11:31**
15 **members the Unity Party had at its peak of**
16 **membership?**
17 A No. 11:31
18 **Q Would you estimate that the Unity 11:32**
19 **Party ever had more than 50 members at one time?**
20 MR. NOVIKOFF: Objection, foundation. 11:32
21 You can answer. 11:32
22 And form. 11:32
23 A I don't know that. 11:32
24 **Q During your terms as Mayor, were your 11:32**
25 **duties in connection with that position the same**

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1 N. Rogers
2 **throughout the period of your service as Mayor?**
3 MR. NOVIKOFF: Objection, form. 11:32
4 A They varied. 11:32
5 **Q When you served as Mayor of Ocean 11:32**
6 **Beach, did you at any point simultaneously hold**
7 **the position of police commissioner at Ocean**
8 **Beach?**
9 MR. NOVIKOFF: Objection, form. 11:33
10 A Yes. 11:33
11 **Q And were you police commissioner at 11:33**
12 **Ocean Beach throughout the period that you served**
13 **as Mayor of Ocean Beach?**
14 A No. 11:33
15 **Q When did you first become police 11:33**
16 **commissioner at Ocean Beach?**
17 A I believe it was 2002. 11:33
18 **Q And was that in the middle of one of 11:33**
19 **your terms as Mayor?**
20 A The start of one. 11:33
21 **Q Had there been a police commissioner 11:33**
22 **of Ocean Beach prior to the time that you had**
23 **began serving in that capacity?**
24 A Yes. 11:34
25 **Q And who was the most recent police 11:34**

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1 N. Rogers
2 **commissioner prior to yourself?**
3 MR. NOVIKOFF: Objection. 11:34
4 You can answer. 11:34
5 A Trustee Andrew Miller. 11:34
6 **Q Other than yourself and Trustee 11:34**
7 **Andrew Miller, did anybody else serve in the**
8 **position as police commissioner of Ocean Beach at**
9 **any point during your employment at Ocean Beach?**
10 MR. NOVIKOFF: Objection, form. 11:34
11 A I don't believe so, no. 11:34
12 **Q Do you know who or what entity was 11:34**
13 **responsible for the decision to bring the position**
14 **of police commissioner within the position of**
15 **Mayor of Ocean Beach?**
16 MR. NOVIKOFF: Objection, form, 11:35
17 foundation.
18 A The board of trustees. 11:35
19 **Q Do you know who spearhead -- strike 11:35**
20 **that.**
21 **Do you know who proposed that the 11:35**
22 **position of police commissioner of Ocean Beach**
23 **should become -- should be filled by the Mayor of**
24 **Ocean Beach?**
25 MR. NOVIKOFF: Objection, form. 11:35

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<p>1 N. Rogers</p> <p>2 A I did. 11:35</p> <p>3 Q And when did you make that proposal? 11:35</p> <p>4 A In 2002. 11:35</p> <p>5 Q And why did you make that proposal at 11:35</p> <p>6 that time?</p> <p>7 A Because Trustee Miller had been 11:36</p> <p>8 defeated and was no longer a trustee. Defeated in</p> <p>9 an election and was no longer a trustee.</p> <p>10 Q Did anyone oppose or object to your 11:36</p> <p>11 proposal to assume the position of police</p> <p>12 commissioner of Ocean Beach in your capacity as</p> <p>13 Mayor of Ocean Beach?</p> <p>14 MR. NOVIKOFF: Objection, form. 11:36</p> <p>15 A Not to my recollection. 11:36</p> <p>16 Q And can you explain why, when Trustee 11:36</p> <p>17 Miller ceased being a trustee, you proposed that</p> <p>18 his duties as police commissioner be assigned to</p> <p>19 yourself in your capacity as Mayor?</p> <p>20 MR. NOVIKOFF: Objection, form. 11:36</p> <p>21 A I felt it was appropriate. 11:37</p> <p>22 Q Had you had any prior experience with 11:37</p> <p>23 police or law enforcement service?</p> <p>24 A No. 11:37</p> <p>25 Q At that time, this is when, in 2002, 11:37</p>	<p>1 N. Rogers</p> <p>2 Suffolk County's Department of Civil Service?</p> <p>3 MS. McEACHIN: Objection. 11:39</p> <p>4 MR. NOVIKOFF: Objection, form. 11:39</p> <p>5 You can answer. 11:39</p> <p>6 THE WITNESS: I can answer? 11:39</p> <p>7 MR. NOVIKOFF: You can answer. 11:39</p> <p>8 A Repeat the question, please. 11:39</p> <p>9 Q Do you know whether in 2002, when 11:39</p> <p>10 Edward Paradiso was chief of police, whether that</p> <p>11 was also his position in connection with Suffolk</p> <p>12 County Civil Service requirements?</p> <p>13 MR. NOVIKOFF: Objection. 11:39</p> <p>14 MS. McEACHIN: Objection. 11:39</p> <p>15 MR. NOVIKOFF: Form, calls for a 11:39</p> <p>16 legal conclusion, among other problems.</p> <p>17 You can answer. 11:39</p> <p>18 THE WITNESS: I can answer? 11:39</p> <p>19 MR. NOVIKOFF: Until I tell you not 11:39</p> <p>20 to, you can answer.</p> <p>21 A No. 11:39</p> <p>22 MR. JEMAL: Can we step out for just 11:39</p> <p>23 a minute?</p> <p>24 MR. NOVIKOFF: Sure. 11:39</p> <p>25 THE VIDEOGRAPHER: The time is now 11:39</p>
Page 66	Page 68
<p>1 N. Rogers</p> <p>2 you became police commissioner, what were the</p> <p>3 duties of that position?</p> <p>4 MR. NOVIKOFF: Objection, form. 11:37</p> <p>5 A General oversight. General 11:37</p> <p>6 oversight.</p> <p>7 Q Is that with respect to general 11:37</p> <p>8 oversight over the Ocean Beach Police Department?</p> <p>9 A Yes. 11:37</p> <p>10 Q And what was the nature of the work 11:38</p> <p>11 that you performed when you became police</p> <p>12 commissioner in 2002 with respect to general --</p> <p>13 generally overseeing the department?</p> <p>14 MR. NOVIKOFF: Objection, form. 11:38</p> <p>15 A Regular informational meetings with 11:38</p> <p>16 the chief of police.</p> <p>17 Q Did anyone else participate in those 11:38</p> <p>18 regular informational meetings with the chief of</p> <p>19 police?</p> <p>20 A Not to my recollection, no. 11:38</p> <p>21 Q And who was the chief of police at 11:38</p> <p>22 that time?</p> <p>23 A Edward Paradiso. 11:38</p> <p>24 Q At that time, was Edward Paradiso's 11:38</p> <p>25 title as chief of police recognized as such by</p>	<p>1 N. Rogers</p> <p>2 11:39 a.m.</p> <p>3 We are now off the record. 11:40</p> <p>4 (Recess taken.) 11:40</p> <p>5 THE VIDEOGRAPHER: This is the start 11:50</p> <p>6 of tape number two. The time is now</p> <p>7 11:50 a.m.</p> <p>8 We are now back on the record. 11:50</p> <p>9 BY MR. GRAFF: 11:50</p> <p>10 Q How frequently would you have regular 11:51</p> <p>11 informational meetings with Chief Paradiso when</p> <p>12 you -- in the first year of your service as police</p> <p>13 commissioner of Ocean Beach?</p> <p>14 MR. NOVIKOFF: Note my objection to 11:51</p> <p>15 the form.</p> <p>16 You may answer the question. 11:51</p> <p>17 A Approximately once a week during the 11:51</p> <p>18 summer months, July and August.</p> <p>19 Q And who else, if anyone, would 11:51</p> <p>20 participate in those regular informational</p> <p>21 meetings?</p> <p>22 A No one. 11:51</p> <p>23 Q Did you take any notes during those 11:51</p> <p>24 meetings?</p> <p>25 A Generally not. 11:51</p>

<p style="text-align: right;">Page 69</p> <p>1 N. Rogers</p> <p>2 Q Did you sometimes take notes during 11:51</p> <p>3 those meetings?</p> <p>4 A Not that I can recall, no. 11:51</p> <p>5 Q Are there any documents that could 11:52</p> <p>6 reflect your recollection as to whether you took</p> <p>7 notes during those informational meetings?</p> <p>8 MR. NOVIKOFF: Reflect her 11:52</p> <p>9 recollection?</p> <p>10 MR. GRAFF: Refresh, excuse me. 11:52</p> <p>11 A I don't believe so, no. 11:52</p> <p>12 Q And could you describe the types of 11:52</p> <p>13 information that Chief Paradiso would communicate</p> <p>14 to you in your capacity as police commissioner in</p> <p>15 those meetings?</p> <p>16 MR. NOVIKOFF: Objection, form. 11:52</p> <p>17 A Generally a discussion about what was 11:52</p> <p>18 happening. If there were any major problems. If</p> <p>19 everything was working well. If we were on</p> <p>20 budget.</p> <p>21 They were not formal meetings, nor 11:52</p> <p>22 was the format formal.</p> <p>23 Q And did you continue to have regular 11:53</p> <p>24 informational meetings of that nature throughout</p> <p>25 the period of your service as police commissioner?</p>	<p style="text-align: right;">Page 71</p> <p>1 N. Rogers</p> <p>2 Chief Paradiso?</p> <p>3 MR. NOVIKOFF: Objection, form. 11:55</p> <p>4 If you understand the question, you 11:55</p> <p>5 can answer it.</p> <p>6 A No. 11:55</p> <p>7 Q And were you responding to my 11:55</p> <p>8 question or to your counsel's statement?</p> <p>9 A To your question. 11:55</p> <p>10 Q Thank you. 11:55</p> <p>11 From the time that you became police 11:55</p> <p>12 commissioner in 2002, until the time that</p> <p>13 Chief Paradiso stopped serving as chief in 2005,</p> <p>14 did your duties as police commissioner involve</p> <p>15 anything other than the regular informational</p> <p>16 meetings that you have already referred to?</p> <p>17 MR. NOVIKOFF: Objection, form. 11:55</p> <p>18 A I don't believe so. 11:56</p> <p>19 Q From the time Chief Paradiso stopped 11:56</p> <p>20 serving as chief in 2005, until July 3rd, 2006,</p> <p>21 what, if anything, were your duties as police</p> <p>22 commissioner?</p> <p>23 MR. NOVIKOFF: Objection, form. 11:56</p> <p>24 A Just obtain general information as to 11:56</p> <p>25 the operation of the police department.</p>
<p style="text-align: right;">Page 70</p> <p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Objection, form. 11:53</p> <p>3 A Only with Ed Paradiso during the time 11:53</p> <p>4 that he remained in the capacity as police chief.</p> <p>5 Q And at what time did he cease serving 11:53</p> <p>6 in that capacity, and those meetings stop</p> <p>7 happening?</p> <p>8 MR. NOVIKOFF: Objection, form. 11:53</p> <p>9 A He had an injury to his -- I believe 11:53</p> <p>10 it was his leg or his heel, which somewhat</p> <p>11 incapacitated him, and he could not continue his</p> <p>12 full-time activities as police commissioner.</p> <p>13 Q And when did that occur? 11:54</p> <p>14 A I do not recall the date. 11:54</p> <p>15 Q Do you recall what year it was? 11:54</p> <p>16 A To the best of my recollection, it 11:54</p> <p>17 was in -- someplace in or around 2005.</p> <p>18 Q When did you stop serving as Mayor of 11:54</p> <p>19 Ocean Beach?</p> <p>20 A My term ended on July 3rd, 2006. 11:54</p> <p>21 Q From the time that Chief Paradiso 11:54</p> <p>22 stopped serving in the capacity of chief through</p> <p>23 July 3rd, 2006, did another individual assume his</p> <p>24 role in those regular informational meetings that</p> <p>25 you had been having until that point with</p>	<p style="text-align: right;">Page 72</p> <p>1 N. Rogers</p> <p>2 Q And was there a designated person at 11:57</p> <p>3 the police department who was responsible for</p> <p>4 communicating that general information to you?</p> <p>5 A Yes. 11:57</p> <p>6 Q And who was that person? 11:57</p> <p>7 A George Hesse. 11:57</p> <p>8 Q And was anybody other than George 11:57</p> <p>9 Hesse responsible for communicating that</p> <p>10 information to you during that period?</p> <p>11 MR. NOVIKOFF: Objection, form. 11:57</p> <p>12 A Not to my knowledge, no. 11:57</p> <p>13 Q And what was George Hesse's title 11:57</p> <p>14 during that period?</p> <p>15 MR. NOVIKOFF: Objection, form. 11:57</p> <p>16 A Acting police commissioner. 11:57</p> <p>17 Q I'm sorry, did you mean acting police 11:57</p> <p>18 chief?</p> <p>19 A Police chief, excuse me, yes. 11:57</p> <p>20 Q Did the Village board of trustees 11:57</p> <p>21 pass a resolution conferring the title of acting</p> <p>22 police chief on George Hesse?</p> <p>23 A I believe it was deputy police chief, 11:58</p> <p>24 the resolution. The answer is yes.</p> <p>25 Q Do you recall who proposed that 11:58</p>

<p style="text-align: right;">Page 73</p> <p>1 N. Rogers</p> <p>2 resolution?</p> <p>3 A I did. 11:58</p> <p>4 Q And why did you propose that George Hesse 11:58</p> <p>5 Hesse assume the role of acting police chief?</p> <p>6 A Because I felt it was appropriate to 11:58</p> <p>7 formalize his status.</p> <p>8 Q And can you explain what you mean by 11:58</p> <p>9 "formalize his status"?</p> <p>10 MR. NOVIKOFF: It's a yes-or-no 11:58</p> <p>11 question. Can you explain?</p> <p>12 A Yes. 11:58</p> <p>13 Q Please explain what you meant by 11:59</p> <p>14 "formalize his status."</p> <p>15 A He was acting in the capacity of 11:59</p> <p>16 police chief. I felt it appropriate that it be</p> <p>17 done by a board resolution.</p> <p>18 Q Do you recall when he began acting in 11:59</p> <p>19 the capacity of acting police chief prior to that</p> <p>20 role being formalized by that resolution?</p> <p>21 A No, I do not. I do not recall the 11:59</p> <p>22 date.</p> <p>23 Q Was he acting in that capacity prior 11:59</p> <p>24 to the time that Edward Paradiso sustained an</p> <p>25 injury and stopped serving actively as police</p>	<p style="text-align: right;">Page 75</p> <p>1 N. Rogers</p> <p>2 the board of trustees?</p> <p>3 MR. NOVIKOFF: Objection, form. 12:01</p> <p>4 A Yes. 12:01</p> <p>5 Q Do you know who proposed initially to 12:01</p> <p>6 the board of trustees that George Hesse should</p> <p>7 assume the duties of acting police chief during</p> <p>8 that time?</p> <p>9 MR. NOVIKOFF: Objection, form, asked 12:02</p> <p>10 and answered.</p> <p>11 A No. 12:02</p> <p>12 Q Do you know whether the board of 12:02</p> <p>13 trustees -- strike that.</p> <p>14 For what length of time was George 12:02</p> <p>15 Hesse acting police chief prior to the resolution</p> <p>16 formalizing that title?</p> <p>17 A I do not know. 12:02</p> <p>18 Q Was it more than a year? 12:02</p> <p>19 MR. NOVIKOFF: Objection. 12:02</p> <p>20 A I don't believe so, but I do not know 12:02</p> <p>21 for certain.</p> <p>22 Q At the time that Edward Paradiso 12:03</p> <p>23 communicated that he would not be able to continue</p> <p>24 actively serving as police chief, did you</p> <p>25 participate in any discussions regarding who would</p>
<p style="text-align: right;">Page 74</p> <p>1 N. Rogers</p> <p>2 chief?</p> <p>3 MR. NOVIKOFF: Objection, form. 11:59</p> <p>4 A No. 11:59</p> <p>5 Q Do you know who, if anyone, was 12:00</p> <p>6 responsible for the decision, if one was made, for</p> <p>7 George Hesse to begin informally acting in the</p> <p>8 capacity of police chief?</p> <p>9 MR. NOVIKOFF: Objection, form. 12:00</p> <p>10 A Yes. 12:00</p> <p>11 Q Who was responsible for that 12:00</p> <p>12 decision?</p> <p>13 A It was more than one person. 12:00</p> <p>14 Q Could you identify all of the 12:00</p> <p>15 individuals who were responsible for that</p> <p>16 decision?</p> <p>17 A Give me the time frame again, if you 12:00</p> <p>18 will, Counselor, please.</p> <p>19 Q Sure. After Edward Paradiso stopped 12:00</p> <p>20 serving as police chief in approximately 2005,</p> <p>21 through the time when George Hesse's role as</p> <p>22 acting police chief was formalized by resolution.</p> <p>23 MR. NOVIKOFF: Objection, form. 12:01</p> <p>24 A The board of trustees as a group. 12:01</p> <p>25 Q As Mayor, were you the chairman of 12:01</p>	<p style="text-align: right;">Page 76</p> <p>1 N. Rogers</p> <p>2 assume his duties at the police department?</p> <p>3 MR. NOVIKOFF: Objection, form. 12:03</p> <p>4 A Yes. 12:03</p> <p>5 Q And who did you have those 12:03</p> <p>6 discussions with?</p> <p>7 A Members of the board of trustees. 12:03</p> <p>8 Q Who specifically, please? 12:03</p> <p>9 A Trustee Jim Mallott and Trustee Joe 12:03</p> <p>10 Loeffler.</p> <p>11 MR. JEMAL: Can we step out for a 12:04</p> <p>12 second?</p> <p>13 MR. GRAFF: Note for the record that 12:04</p> <p>14 Village attorney has requested a break.</p> <p>15 MR. NOVIKOFF: No. 12:04</p> <p>16 THE VIDEOGRAPHER: The time is now -- 12:04</p> <p>17 MR. NOVIKOFF: For the record, 12:04</p> <p>18 defendants have requested a break.</p> <p>19 THE VIDEOGRAPHER: Time is now 12:04</p> <p>20 12:04 p.m.</p> <p>21 We are now off the record. 12:04</p> <p>22 (Recess taken.) 12:04</p> <p>23 THE VIDEOGRAPHER: The time is now 12:05</p> <p>24 12:05 p.m.</p> <p>25 We are now back on the record. 12:05</p>

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<p>1 N. Rogers</p> <p>2 MR. GRAFF: Could the court reporter 12:05</p> <p>3 please read back my last question to Mayor</p> <p>4 Rogers and her last response.</p> <p>5 (Record read.) 12:06</p> <p>6 BY MR. GRAFF: 12:06</p> <p>7 Q Mayor Rogers, do you recall what 12:06</p> <p>8 George Hesse's title was at the time that</p> <p>9 Chief Paradiso stopped serving as police chief?</p> <p>10 MR. NOVIKOFF: Objection, form. 12:06</p> <p>11 A I believe it was sergeant. 12:06</p> <p>12 Q Do you recall whether the title of 12:06</p> <p>13 sergeant was conferred on George Hesse by</p> <p>14 resolution of the board of trustees?</p> <p>15 A It was not. 12:06</p> <p>16 Q Do you know when George Hesse 12:06</p> <p>17 attained the title of sergeant?</p> <p>18 MR. NOVIKOFF: Objection, form. 12:06</p> <p>19 A No, I do not. 12:07</p> <p>20 Q Do you know whether George Hesse was 12:07</p> <p>21 serving as police sergeant during any period of</p> <p>22 time when Ed Paradiso was serving as police chief?</p> <p>23 MR. NOVIKOFF: Objection, form. 12:07</p> <p>24 A I do not know the time. 12:07</p> <p>25 Q Mayor Rogers, when you were a member 12:07</p>	<p>1 N. Rogers</p> <p>2 MR. GRAFF: Well, are you instructing 12:08</p> <p>3 the witness not to answer on the basis of a</p> <p>4 privilege?</p> <p>5 MR. NOVIKOFF: Well, let's see. I 12:08</p> <p>6 said don't answer the question, and I said</p> <p>7 privilege. So, my question to you once</p> <p>8 again is, Counselor, what didn't you</p> <p>9 understand by my statement?</p> <p>10 MR. GRAFF: I do not understand what 12:09</p> <p>11 privilege you are invoking in this context.</p> <p>12 MR. NOVIKOFF: Communications among 12:09</p> <p>13 the trustees during executive sessions are</p> <p>14 privileged. I am instructing her not to</p> <p>15 answer the question.</p> <p>16 If it was a conversation outside of 12:09</p> <p>17 executive session, she may answer the</p> <p>18 question.</p> <p>19 MR. GRAFF: Is your objection -- 12:09</p> <p>20 MR. NOVIKOFF: Counselor, ask the 12:09</p> <p>21 question. I have now told you twice the</p> <p>22 basis for my objection. Whether or not you</p> <p>23 agree with it, I don't care.</p> <p>24 MR. GRAFF: I am looking for 12:09</p> <p>25 clarification.</p>
Page 78	Page 80
<p>1 N. Rogers</p> <p>2 of the Civil Service Commission of New York City,</p> <p>3 and you heard grievances by employees of New York</p> <p>4 City, did any of those grievances involve members</p> <p>5 of any police department?</p> <p>6 A No. 12:08</p> <p>7 MS. McEACHIN: Objection. 12:08</p> <p>8 THE WITNESS: Sorry. 12:08</p> <p>9 BY MR. GRAFF: 12:08</p> <p>10 Q Did you have conversations 12:08</p> <p>11 individually with Trustee Mallott with respect to</p> <p>12 the decision for George Hesse to serve as acting</p> <p>13 police chief?</p> <p>14 MR. NOVIKOFF: Objection. To the 12:08</p> <p>15 extent any conversation individually was had</p> <p>16 with Mr. Mallott during executive session, I</p> <p>17 would instruct you not to answer the</p> <p>18 question on the basis of privilege.</p> <p>19 Other than in executive session, you 12:08</p> <p>20 may proceed to answer.</p> <p>21 MR. GRAFF: I am going to need to 12:08</p> <p>22 clarify, Mr. Novikoff, the nature of your</p> <p>23 objection here.</p> <p>24 MR. NOVIKOFF: What exactly from my 12:08</p> <p>25 statement didn't you understand, Counselor?</p>	<p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: There is no need for 12:09</p> <p>3 clarification.</p> <p>4 MR. GRAFF: Counsel, there is. 12:09</p> <p>5 MR. NOVIKOFF: I couldn't have been 12:09</p> <p>6 clearer. I couldn't have been more clear.</p> <p>7 I'm not being deposed here. I have</p> <p>8 objected. I've told you what my objection</p> <p>9 is. It's in the record. Proceed.</p> <p>10 MR. GRAFF: Your objection is 12:09</p> <p>11 improper. We can mark this for a ruling.</p> <p>12 MR. NOVIKOFF: I assumed you would 12:10</p> <p>13 think it was improper. Let's mark it for a</p> <p>14 ruling.</p> <p>15 BY MR. GRAFF: 12:10</p> <p>16 Q Mayor Rogers, when the board of 12:10</p> <p>17 trustees meets in executive session, does it ever</p> <p>18 do so with more -- strike that.</p> <p>19 Does it ever do so with fewer than 12:10</p> <p>20 three members of the board of trustees?</p> <p>21 MR. NOVIKOFF: Objection to the form. 12:10</p> <p>22 A No. 12:10</p> <p>23 Q Did you ever have any conversations 12:10</p> <p>24 with Trustee Mallott individually concerning the</p> <p>25 decision for George Hesse to assume the role of</p>

20 (Pages 77 to 80)

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<p>1 N. Rogers</p> <p>2 acting police chief?</p> <p>3 MR. NOVIKOFF: Again, if the question 12:10</p> <p>4 requires you to answer about something that</p> <p>5 took place in executive session, I instruct</p> <p>6 you not to answer.</p> <p>7 If the conversation took place in any 12:11</p> <p>8 other area outside of executive session, you</p> <p>9 may answer the question.</p> <p>10 MR. GRAFF: If we could mark the 12:11</p> <p>11 record again.</p> <p>12 MR. NOVIKOFF: It was the same 12:11</p> <p>13 question that you asked five minutes ago.</p> <p>14 MR. GRAFF: It's your objection 12:11</p> <p>15 again.</p> <p>16 MR. NOVIKOFF: I like to be 12:11</p> <p>17 consistent.</p> <p>18 A Yes. 12:11</p> <p>19 Q How many such conversations did you 12:11</p> <p>20 have with Trustee Mallott?</p> <p>21 A I have no recollection. 12:11</p> <p>22 Q Do you recall what Trustee Mallott 12:11</p> <p>23 said to you in those conversations?</p> <p>24 A General agreement. I do not recall 12:11</p> <p>25 any specific words that we used.</p>	<p>1 N. Rogers</p> <p>2 MR. GRAFF: Again, could we -- 12:13</p> <p>3 MR. NOVIKOFF: Yes. Mark for a 12:13</p> <p>4 ruling.</p> <p>5 MR. GRAFF: I wasn't asking you, 12:13</p> <p>6 Mr. Novikoff. I was asking the court</p> <p>7 reporter to please mark that.</p> <p>8 MR. NOVIKOFF: Okay. 12:13</p> <p>9 BY MR. GRAFF: 12:13</p> <p>10 Q Do you recall how many such 12:13</p> <p>11 conversations you had with Trustee Loeffler?</p> <p>12 A No, I do not. 12:13</p> <p>13 Q Is the Trustee Loeffler who you are 12:13</p> <p>14 referring to currently the Mayor of Ocean Beach?</p> <p>15 A Correct. 12:13</p> <p>16 Q At the time -- as of the time that 12:13</p> <p>17 Edward Paradiso stopped serving actively as police</p> <p>18 chief, had you had any direct communications with</p> <p>19 George Hesse with respect to the Ocean Beach</p> <p>20 Police Department?</p> <p>21 MR. NOVIKOFF: Objection, form. 12:14</p> <p>22 You can answer. 12:14</p> <p>23 A Not that I can recall, no. 12:14</p> <p>24 Q Did you have any knowledge at that 12:14</p> <p>25 time concerning George Hesse's performance as an</p>
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<p>1 N. Rogers</p> <p>2 Q Agreement, general agreement with 12:12</p> <p>3 what?</p> <p>4 A What was your question? 12:12</p> <p>5 Q You used the phrase "general 12:12</p> <p>6 agreement" in your last response.</p> <p>7 A Right. 12:12</p> <p>8 Q My question now is, what were you 12:12</p> <p>9 referring to when you said "general agreement"?</p> <p>10 MR. NOVIKOFF: I believe she said 12:12</p> <p>11 your question.</p> <p>12 A Your question, yes. 12:12</p> <p>13 Q Thank you. 12:12</p> <p>14 Do you recall anything that you said 12:12</p> <p>15 to Trustee Mallott in those conversations?</p> <p>16 A Not specifically, no. 12:12</p> <p>17 Q Did you have any conversations with 12:12</p> <p>18 Joe Loeffler individually with respect to the</p> <p>19 decision for George Hesse to assume the duties of</p> <p>20 acting police chief?</p> <p>21 MR. NOVIKOFF: Again, if the 12:12</p> <p>22 conversation took place during executive</p> <p>23 session, I instruct you not to answer. In</p> <p>24 any other context, you may answer.</p> <p>25 A Yes. 12:13</p>	<p>1 N. Rogers</p> <p>2 Ocean Beach police officer?</p> <p>3 A Not specifically. 12:14</p> <p>4 Q Do you recall what, if any, 12:14</p> <p>5 information you did have with respect to his</p> <p>6 performance as a police officer?</p> <p>7 MR. NOVIKOFF: Objection, form. 12:14</p> <p>8 You can answer. 12:14</p> <p>9 A A satisfactory performance in 12:14</p> <p>10 general.</p> <p>11 Q And what was the basis for your 12:14</p> <p>12 knowledge of that information?</p> <p>13 A Information from Ed Paradiso. 12:14</p> <p>14 Q Did Ed Paradiso indicate to you at 12:14</p> <p>15 the time that he stopped serving actively as</p> <p>16 police chief that he believed that George Hesse</p> <p>17 should assume his duties as acting police chief?</p> <p>18 A He did not. 12:15</p> <p>19 Q Did you have any discussions with Ed 12:15</p> <p>20 Paradiso regarding the decision for George Hesse</p> <p>21 to assume the role of acting police chief?</p> <p>22 A Yes. 12:15</p> <p>23 Q Do you recall how many such 12:15</p> <p>24 conversations you had?</p> <p>25 A I only recall one. 12:15</p>

<p style="text-align: right;">Page 85</p> <p>1 N. Rogers</p> <p>2 Q And, in substance, what do you recall 12:15</p> <p>3 of that conversation?</p> <p>4 A Ed Paradiso did not feel that George 12:15</p> <p>5 Hesse would be the right person as acting police</p> <p>6 chief.</p> <p>7 Q Did he explain to you why he felt 12:16</p> <p>8 that way?</p> <p>9 A No. 12:16</p> <p>10 Q Did you ask him why he felt that way? 12:16</p> <p>11 A No. 12:16</p> <p>12 Q Did you have any information at that 12:16</p> <p>13 time concerning the basis for Ed Paradiso's</p> <p>14 feeling that George Hesse would not be an</p> <p>15 appropriate person to serve in the role of active</p> <p>16 police chief?</p> <p>17 MR. NOVIKOFF: Objection, form. 12:16</p> <p>18 A I don't believe so, no. 12:16</p> <p>19 Q Did you have any communications 12:17</p> <p>20 individually with Trustee Mallott concerning Ed</p> <p>21 Paradiso's feeling that it would not be</p> <p>22 appropriate for George Hesse to serve as acting</p> <p>23 police chief?</p> <p>24 MR. NOVIKOFF: Again, same caution. 12:17</p> <p>25 If it occurred in executive session, I</p>	<p style="text-align: right;">Page 87</p> <p>1 N. Rogers</p> <p>2 subject?</p> <p>3 A I was not comfortable with the 12:18</p> <p>4 veracity of information I was getting from Ed</p> <p>5 Paradiso.</p> <p>6 Q Why were you uncomfortable with the 12:18</p> <p>7 veracity of that information?</p> <p>8 A There was a question about working 12:18</p> <p>9 time on the part of Ed Paradiso. It had been</p> <p>10 raised by others in the Village and the board of</p> <p>11 trustees, and I had looked into the possibility of</p> <p>12 him working another job on time that he was signed</p> <p>13 in for having worked in the Village.</p> <p>14 Q And were you able to confirm whether 12:19</p> <p>15 Ed Paradiso in fact was working at another job</p> <p>16 during time that he indicated that he was working</p> <p>17 at the Village?</p> <p>18 A I did. And I found some overlap of 12:19</p> <p>19 time.</p> <p>20 Q What was the other position that he 12:19</p> <p>21 was working at while he was working at -- while he</p> <p>22 was on the clock at Ocean Beach?</p> <p>23 A Doing security in a -- I believe it's 12:20</p> <p>24 a high school in East Islip on the mainland.</p> <p>25 Q And how much overlap did you find? 12:20</p>
<p style="text-align: right;">Page 86</p> <p>1 N. Rogers</p> <p>2 instruct you not to answer on the basis of</p> <p>3 privilege.</p> <p>4 If any conversation occurred outside 12:17</p> <p>5 of it, you can answer.</p> <p>6 MR. GRAFF: If we can please mark the 12:17</p> <p>7 transcript.</p> <p>8 A No. 12:17</p> <p>9 Q No, you did not communicate that fact 12:17</p> <p>10 to Trustee Mallott?</p> <p>11 A You asked did we have any 12:17</p> <p>12 conversations, and my answer is no.</p> <p>13 Q Okay. Did you communicate to 12:17</p> <p>14 Trustee Mallott that Ed Paradiso had informed you</p> <p>15 that he did not believe that it would be</p> <p>16 appropriate for George Hesse to assume the role of</p> <p>17 acting police chief?</p> <p>18 MR. NOVIKOFF: Same caution and 12:17</p> <p>19 instruction with regard to privilege.</p> <p>20 MR. GRAFF: Mark the record, please. 12:17</p> <p>21 A I believe I spoke to him about it. I 12:18</p> <p>22 have no recollection as to when.</p> <p>23 Q Do you recall anything of the 12:18</p> <p>24 substance of what was discussed with</p> <p>25 Trustee Mallott when you spoke to him about that</p>	<p style="text-align: right;">Page 88</p> <p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Note my objection to 12:20</p> <p>3 the form.</p> <p>4 You can answer. 12:20</p> <p>5 A I can't tell you how many hours. It 12:20</p> <p>6 was a small number of hours, but there was some</p> <p>7 overlap that I did find.</p> <p>8 Q Do you recall whether the number of 12:20</p> <p>9 hours was fewer than 20 hours in total?</p> <p>10 A I do not recall the number of hours, 12:20</p> <p>11 no.</p> <p>12 Q How did you verify that that overlap 12:20</p> <p>13 existed?</p> <p>14 A I was given sign-ins for the school 12:20</p> <p>15 and I obtained the time sheets from the Village</p> <p>16 records for the periods in question.</p> <p>17 Q Did anyone else participate with you 12:21</p> <p>18 in your investigation or attempt to verify whether</p> <p>19 that overlap existed?</p> <p>20 MR. NOVIKOFF: Objection, form. 12:21</p> <p>21 A When I completed my own review and 12:21</p> <p>22 analysis, I sent the information --</p> <p>23 THE WITNESS: Now, again, is this 12:21</p> <p>24 privileged? I don't know.</p> <p>25 MR. GRAFF: If you need to confer 12:21</p>

<p style="text-align: right;">Page 89</p> <p>1 N. Rogers</p> <p>2 with your counsel.</p> <p>3 THE WITNESS: I may have to. Excuse 12:21</p> <p>4 me.</p> <p>5 MR. NOVIKOFF: Let's. 12:21</p> <p>6 THE VIDEOGRAPHER: The time is now 12:21</p> <p>7 12:21 p.m.</p> <p>8 We are now off the record. 12:21</p> <p>9 (Recess taken.) 12:21</p> <p>10 THE VIDEOGRAPHER: The time is now 12:23</p> <p>11 12:23 p.m.</p> <p>12 We are now back on the record. 12:23</p> <p>13 MR. GRAFF: Could the court reporter 12:24</p> <p>14 please read back the last question and</p> <p>15 response.</p> <p>16 (Record read.) 12:24</p> <p>17 MR. NOVIKOFF: You can answer the 12:24</p> <p>18 question.</p> <p>19 BY MR. GRAFF: 12:24</p> <p>20 Q Can you finish answering the 12:24</p> <p>21 question.</p> <p>22 A I sent the information to our Village 12:24</p> <p>23 attorney, Peter Bee, and I asked him --</p> <p>24 MR. NOVIKOFF: Mmm, mmm. 12:24</p> <p>25 THE WITNESS: Sorry. 12:24</p>	<p style="text-align: right;">Page 91</p> <p>1 N. Rogers</p> <p>2 investigation and its outcome?</p> <p>3 MR. NOVIKOFF: One, objection to 12:26</p> <p>4 form.</p> <p>5 Two, same instructions as before. If 12:26</p> <p>6 any conversation with Trustee Loeffler took</p> <p>7 place in executive session, you shall not</p> <p>8 answer the question on the basis of</p> <p>9 privilege, and if it took place outside of</p> <p>10 executive session, you are free to answer.</p> <p>11 MR. GRAFF: Please mark the 12:26</p> <p>12 transcript.</p> <p>13 A I do not recall discussing this with 12:26</p> <p>14 Trustee Loeffler.</p> <p>15 Q Did you have any discussions 12:26</p> <p>16 individually with Trustee Loeffler concerning Ed</p> <p>17 Paradiso's statement to you that he did not</p> <p>18 believe that it would be appropriate for George</p> <p>19 Hesse to assume the role of acting police chief?</p> <p>20 MR. NOVIKOFF: Same instructions 12:26</p> <p>21 regarding the executive session privilege.</p> <p>22 MR. GRAFF: Please mark the 12:26</p> <p>23 transcript.</p> <p>24 A I do not recall discussing that with 12:26</p> <p>25 him, no.</p>
<p style="text-align: right;">Page 90</p> <p>1 N. Rogers</p> <p>2 A I sent the information to Peter Bee. 12:24</p> <p>3 Q Did you confront Ed Paradiso with 12:24</p> <p>4 your conclusion and the outcome of your</p> <p>5 investigation?</p> <p>6 MR. NOVIKOFF: Objection to form. 12:24</p> <p>7 A No. 12:24</p> <p>8 Q Why not? 12:24</p> <p>9 MR. NOVIKOFF: If the answer requires 12:25</p> <p>10 you to disclose attorney-client privilege,</p> <p>11 then I will instruct you not to answer. If</p> <p>12 it doesn't, then you should answer.</p> <p>13 A I will only say that I wanted an 12:25</p> <p>14 opinion from the Village attorney.</p> <p>15 Q Before discussing the issue with Ed 12:25</p> <p>16 Paradiso?</p> <p>17 A Before anything. 12:25</p> <p>18 Q Did there ever come a point in time 12:25</p> <p>19 when you did confront Ed Paradiso about the</p> <p>20 conclusions of your investigation?</p> <p>21 MR. NOVIKOFF: Objection to the form. 12:25</p> <p>22 You can answer. 12:25</p> <p>23 A No. 12:25</p> <p>24 Q Did you have any conversations 12:25</p> <p>25 individually with Joe Loeffler concerning your</p>	<p style="text-align: right;">Page 92</p> <p>1 N. Rogers</p> <p>2 Q So, when you had conversations 12:27</p> <p>3 concerning the decision for George Hesse to assume</p> <p>4 the role of acting police chief with Trustee</p> <p>5 Mallott and Joe Loeffler and there was general</p> <p>6 agreement that he should assume that role, did you</p> <p>7 at any point in those discussions indicate that Ed</p> <p>8 Paradiso did not agree with that, and did not</p> <p>9 believe that he should assume that role?</p> <p>10 MR. NOVIKOFF: Note my objection. 12:27</p> <p>11 A All those discussions were in 12:27</p> <p>12 executive session.</p> <p>13 Q Was counsel present for those 12:27</p> <p>14 discussions?</p> <p>15 MR. NOVIKOFF: In executive session? 12:27</p> <p>16 MR. GRAFF: Yes. 12:27</p> <p>17 MR. NOVIKOFF: Okay. 12:27</p> <p>18 A I believe so. 12:27</p> <p>19 Q Was counsel present so that he could 12:27</p> <p>20 provide legal advice to the board of trustees in</p> <p>21 those executive sessions?</p> <p>22 MR. NOVIKOFF: Objection to form. 12:28</p> <p>23 You can answer. 12:28</p> <p>24 A There was no legal advice requested. 12:28</p> <p>25 Q To your -- do you recall whether Joe 12:28</p>

<p style="text-align: right;">Page 93</p> <p>1 N. Rogers</p> <p>2 Loeffler ever indicated to you that he had any</p> <p>3 doubts about the veracity of information</p> <p>4 communicated to him by Ed Paradiso?</p> <p>5 MR. NOVIKOFF: Same executive session 12:29</p> <p>6 privilege being asserted.</p> <p>7 MR. GRAFF: Please mark the 12:29</p> <p>8 transcript.</p> <p>9 A No. 12:29</p> <p>10 Q Did Trustee Mallott ever communicate 12:29</p> <p>11 to you that he had any concerns concerning the</p> <p>12 veracity of information provided to him by Ed</p> <p>13 Paradiso?</p> <p>14 MR. NOVIKOFF: Same executive session 12:29</p> <p>15 privilege.</p> <p>16 MR. GRAFF: Please mark the 12:29</p> <p>17 transcript.</p> <p>18 A No. 12:29</p> <p>19 Q Did you have any conversations with 12:29</p> <p>20 George Hesse concerning your investigation into</p> <p>21 the time overlap issue involving Ed Paradiso?</p> <p>22 A No. 12:29</p> <p>23 Q Other than in the presence of 12:30</p> <p>24 counsel, did you have any conversations with</p> <p>25 anyone concerning your investigation into the time</p>	<p style="text-align: right;">Page 95</p> <p>1 N. Rogers</p> <p>2 whether there was any basis for Ed Paradiso's</p> <p>3 belief?</p> <p>4 MR. NOVIKOFF: One, objection to 12:31</p> <p>5 form. Two, to the extent that you did</p> <p>6 undertake any activity in the presence of</p> <p>7 counsel, I instruct you not to answer. But</p> <p>8 other than that, you can answer.</p> <p>9 A Only in executive session. 12:31</p> <p>10 Q Was that in the presence of counsel? 12:31</p> <p>11 A Probably. The reason I say that 12:32</p> <p>12 is --</p> <p>13 MR. NOVIKOFF: No, no, no. You 12:32</p> <p>14 answered the question. Probably.</p> <p>15 A Probably. 12:32</p> <p>16 Q Does that mean you are not certain 12:32</p> <p>17 whether counsel was present?</p> <p>18 MR. NOVIKOFF: Objection to form. 12:32</p> <p>19 You can answer. 12:32</p> <p>20 A Yes. 12:32</p> <p>21 Q Is it possible that counsel was not 12:32</p> <p>22 present?</p> <p>23 MR. NOVIKOFF: Objection to the form. 12:32</p> <p>24 A It's possible. Not likely. 12:32</p> <p>25 Q If counsel was present, do you recall 12:32</p>
<p style="text-align: right;">Page 94</p> <p>1 N. Rogers</p> <p>2 overlap issue involving Ed Paradiso?</p> <p>3 A Not that I recall. 12:30</p> <p>4 Q Did you have any conversations with 12:30</p> <p>5 George Hesse concerning Ed Paradiso's belief that</p> <p>6 it would not be appropriate for George Hesse to</p> <p>7 assume the role of acting police chief?</p> <p>8 A I don't believe so, no. 12:30</p> <p>9 Q When Ed Paradiso told you that he did 12:30</p> <p>10 not believe it would be appropriate for George</p> <p>11 Hesse to assume the role of acting police chief,</p> <p>12 did you make any effort to corroborate the</p> <p>13 veracity of his statement?</p> <p>14 MR. NOVIKOFF: Huh? Objection to 12:31</p> <p>15 form.</p> <p>16 A I think I answered that before. 12:31</p> <p>17 MR. NOVIKOFF: I don't even 12:31</p> <p>18 understand it.</p> <p>19 A The answer is no. 12:31</p> <p>20 Q I may have been unclear. When -- 12:31</p> <p>21 A I gave you the answer. 12:31</p> <p>22 Q When Ed Paradiso told you that he did 12:31</p> <p>23 not believe it would be appropriate for George</p> <p>24 Hesse to serve as acting chief, did you consult</p> <p>25 with anybody else to attempt to corroborate</p>	<p style="text-align: right;">Page 96</p> <p>1 N. Rogers</p> <p>2 whether counsel's presence was for the purpose of</p> <p>3 providing legal advice?</p> <p>4 MR. NOVIKOFF: Objection to form. 12:32</p> <p>5 You can answer the question. 12:32</p> <p>6 A No. No. 12:33</p> <p>7 Q No, you do not recall, or no, that 12:33</p> <p>8 was not his purpose?</p> <p>9 MR. NOVIKOFF: Objection to form. 12:33</p> <p>10 A No, not necessarily his purpose. 12:33</p> <p>11 Q Did counsel communicate legal advice 12:33</p> <p>12 during that executive session?</p> <p>13 A Counsel -- counsel gave legal advice 12:33</p> <p>14 when asked for it. There were times when he did</p> <p>15 not.</p> <p>16 Q Did counsel give legal advice during 12:34</p> <p>17 an executive session with respect to the basis for</p> <p>18 Ed Paradiso's belief that George Hesse should not</p> <p>19 assume the role of acting police chief?</p> <p>20 MR. NOVIKOFF: Objection, one, to 12:34</p> <p>21 form. The question presumes that</p> <p>22 conversations took place in executive</p> <p>23 session concerning that very topic, which</p> <p>24 would be privileged. I don't believe there</p> <p>25 has been any waiver of the privilege.</p>

<p style="text-align: right;">Page 97</p> <p>1 N. Rogers</p> <p>2 So I am going to instruct you not to 12:34</p> <p>3 answer that question on the grounds of</p> <p>4 executive session privilege, as I have</p> <p>5 stated before. So don't answer the</p> <p>6 question.</p> <p>7 MR. GRAFF: Is that a statutory 12:35</p> <p>8 privilege?</p> <p>9 MR. NOVIKOFF: Just mark it for a 12:35</p> <p>10 ruling, Counsel. You see the problem is,</p> <p>11 counsel is present during executive session.</p> <p>12 Therefore, communications among the trustees</p> <p>13 in the presence of counsel are privileged.</p> <p>14 That is the basis. Mark it for a ruling.</p> <p>15 MR. GRAFF: Even if those 12:35</p> <p>16 communications were not for legal advice?</p> <p>17 MR. NOVIKOFF: You are a smart boy. 12:35</p> <p>18 When did you graduate, 2006? You know the</p> <p>19 answer to that.</p> <p>20 You can mark it for a ruling. 12:35</p> <p>21 MR. GRAFF: We are going to need 12:35</p> <p>22 to --</p> <p>23 MR. NOVIKOFF: And I believe there is 12:35</p> <p>24 also legislative immunity, but that's okay.</p> <p>25 Mark it for a ruling.</p>	<p style="text-align: right;">Page 99</p> <p>1 N. Rogers</p> <p>2 A I believe we discussed this in 12:55</p> <p>3 executive session.</p> <p>4 Q Did you have any conversations 12:55</p> <p>5 involving only yourself and defendant Loeffler</p> <p>6 with respect to that subject?</p> <p>7 MR. NOVIKOFF: Objection to form. 12:56</p> <p>8 A I don't think so, out of executive 12:56</p> <p>9 session.</p> <p>10 Q I just want to make sure I understand 12:56</p> <p>11 what you are referring to.</p> <p>12 Are you referring to the possibility 12:56</p> <p>13 that this was discussed in an executive session</p> <p>14 that involved only you and defendant Loeffler?</p> <p>15 MR. NOVIKOFF: Objection to the form 12:56</p> <p>16 of the question.</p> <p>17 A No. You can't have a session with 12:56</p> <p>18 less than three people.</p> <p>19 Q Okay. So, you don't recall whether 12:56</p> <p>20 you and Loeffler, only the two of you, ever</p> <p>21 discussed whether George Hesse would be suitable</p> <p>22 for the role of acting police chief?</p> <p>23 MR. NOVIKOFF: Objection, form. 12:56</p> <p>24 A I don't recall, no. 12:56</p> <p>25 Q What was -- was it your belief, when 12:57</p>
<p style="text-align: right;">Page 98</p> <p>1 N. Rogers</p> <p>2 MR. GRAFF: I would like to go off 12:35</p> <p>3 the record so we can attempt to reach</p> <p>4 Judge Boyle for a ruling.</p> <p>5 MR. NOVIKOFF: You got it. 12:35</p> <p>6 THE VIDEOGRAPHER: The time is 12:35</p> <p>7 12:35 p.m.</p> <p>8 We are now off the record. 12:35</p> <p>9 (Recess taken.) 12:35</p> <p>10 THE VIDEOGRAPHER: The time is now 12:54</p> <p>11 12:54 p.m.</p> <p>12 We are now back on the record. 12:54</p> <p>13 BY MR. GRAFF: 12:54</p> <p>14 Q Prior to your proposing to the board 12:55</p> <p>15 that George Hesse's role as acting police chief</p> <p>16 should be formalized by a resolution, did you have</p> <p>17 any conversations individually with Trustee</p> <p>18 Loeffler, with respect to Trustee Loeffler's</p> <p>19 opinion as to George Hesse's suitability for that</p> <p>20 position?</p> <p>21 MR. NOVIKOFF: Objection to form, and 12:55</p> <p>22 to the extent it involves executive session</p> <p>23 communications.</p> <p>24 MR. GRAFF: Please mark the 12:55</p> <p>25 transcript.</p>	<p style="text-align: right;">Page 100</p> <p>1 N. Rogers</p> <p>2 you proposed that George Hesse should assume the</p> <p>3 role of acting police chief, that he would be</p> <p>4 suitable in that role?</p> <p>5 MR. NOVIKOFF: Objection to form. 12:57</p> <p>6 A Yes. 12:57</p> <p>7 Q What information, if any, was the 12:57</p> <p>8 basis for your belief?</p> <p>9 A He had been doing it. He had been 12:57</p> <p>10 doing the job without formal resolution of the</p> <p>11 board.</p> <p>12 Q And did you have any evidence or 12:57</p> <p>13 information at that time to indicate that he had</p> <p>14 been doing that job in a manner that was</p> <p>15 appropriate?</p> <p>16 MR. NOVIKOFF: Objection to the form. 12:58</p> <p>17 A Yes, he appeared to be suitable. 12:58</p> <p>18 Q And in what way did he appear to be 12:58</p> <p>19 suitable?</p> <p>20 A At all board meetings, the chief of 12:58</p> <p>21 police was always requested to give a public</p> <p>22 report of police activities. And based upon these</p> <p>23 reports and the information given out at the time,</p> <p>24 it appeared to be suitable.</p> <p>25 Q And who was the individual who made 12:58</p>

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1 **N. Rogers**

2 **these reports that you are referring to?**

3 A Whoever was the chief of police at -- 12:58

4 this was a standard procedure at all board

5 meetings of the board of directors of the Village.

6 **Q Okay. The board of directors or the 12:59**

7 **board of trustees?**

8 A The board of trustees. I'm sorry. 12:59

9 Excuse me on that.

10 **Q Did the Ocean Beach police chief make 12:59**

11 **reports to the effect that George Hesse was**

12 **suitable for the role of acting police chief?**

13 MR. NOVIKOFF: I'm sorry, before you 12:59

14 answer, could you just read that question

15 back. I just want to make sure my objection

16 is well founded.

17 (Record read.) 12:59

18 MR. NOVIKOFF: Yes, objection to 12:59

19 form.

20 If you understand the question. 12:59

21 A It was never discussed. The answer 13:00

22 is no.

23 **Q Okay. Specifically, what evidence 13:00**

24 **did you have, if any, at the time that Ed Paradiso**

25 **stopped actively serving as police chief, that**

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1 **N. Rogers**

2 **would support your belief that George Hesse was**

3 **suitable to take on the role of acting police**

4 **chief?**

5 MR. NOVIKOFF: Objection. Objection 13:00

6 to form, foundation.

7 A He had been performing the job. To 13:00

8 the extent that it was not being performed by Ed

9 Paradiso, he had been performing this job and

10 performing it adequately.

11 **Q And to what extent was the job not 13:01**

12 **being performed by Edward Paradiso?**

13 A His in- -- 13:01

14 MR. NOVIKOFF: Objection. 13:01

15 THE WITNESS: I'm sorry? 13:01

16 A His inability, because of a physical 13:01

17 problem with his foot, his inability to do the

18 entire job of police chief.

19 **Q And what is the basis for your belief 13:01**

20 **that he had been performing that role in a manner**

21 **that suggested to you that he would be appropriate**

22 **for the role of acting police chief?**

23 MR. NOVIKOFF: Objection to form. 13:02

24 Asked and answered.

25 A He who? You said "he." 13:02

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1 **N. Rogers**

2 **Q That George Hesse would be suitable 13:02**

3 **for the role of acting police chief.**

4 MR. NOVIKOFF: Objection. 13:02

5 A I answered that before. He had been 13:02

6 performing the duties to the extent that

7 Mr. Paradiso was not doing them.

8 **Q Okay. How do you know that he, 13:02**

9 **George Hesse, had been performing those duties?**

10 MR. NOVIKOFF: Objection, form. 13:02

11 A Observation on the part of myself and 13:02

12 other trustees.

13 **Q What did you observe of George Hesse 13:02**

14 **fulfilling the role of acting police chief when Ed**

15 **Paradiso was still police chief?**

16 MR. NOVIKOFF: Objection to the form. 13:02

17 It was the last part of that sentence that I

18 didn't understand.

19 But you can answer. 13:02

20 A He was still designated as police 13:03

21 chief but had been -- his actual performance of

22 his duties had been diminishing because of a

23 health and physical inability situation.

24 **Q Okay. I understand that. How do you 13:03**

25 **know that George Hesse was taking on those duties**

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1 **N. Rogers**

2 **at that time?**

3 A Physical evidence, such as 13:03

4 scheduling, preparing budgetary information.

5 **Q In what way did physical evidence of 13:04**

6 **scheduling indicate to you that George Hesse had**

7 **been taking on the role or duties of police chief**

8 **or acting police chief while Ed Paradiso was**

9 **officially serving in that position?**

10 A Because Ed didn't prepare the 13:04

11 schedules but George did.

12 **Q How do you know that George did? 13:04**

13 A I guess we looked at -- some of the 13:04

14 trustees and myself saw schedules that were

15 prepared by George Hesse and not by Mr. Paradiso.

16 **Q At what point in time did you see 13:04**

17 **those schedules?**

18 A I have no recollection of the time 13:04

19 frame. There was a sequence, there was a

20 transition.

21 **Q Who provided those schedules to you? 13:04**

22 A We requested them. "We" meaning the 13:05

23 board of trustees requested them.

24 **Q Why did you request the schedules at 13:05**

25 **that time?**

<p style="text-align: right;">Page 105</p> <p>1 N. Rogers</p> <p>2 A We were trying to determine the -- 13:05</p> <p>3 the validity and the efficiency of the operation</p> <p>4 of the Police Department. We knew there was a</p> <p>5 problem with the individual who was the chief of</p> <p>6 police, and we wanted to see if the work was being</p> <p>7 performed.</p> <p>8 Q And when you say you knew there was a 13:05</p> <p>9 problem with Ed Paradiso as chief of police, what</p> <p>10 specifically are you referring to?</p> <p>11 A He had a physical disability as a 13:06</p> <p>12 result of an injury to, I believe it was the heel</p> <p>13 on one, one leg, and as a result of it, his work</p> <p>14 activity gradually became more limited and his</p> <p>15 time ability to do some of the duties that he had</p> <p>16 became more limited.</p> <p>17 Q Is that something that Ed Paradiso 13:06</p> <p>18 informed you of?</p> <p>19 MR. NOVIKOFF: Objection. 13:06</p> <p>20 A No. It was something that I observed 13:06</p> <p>21 because I could see.</p> <p>22 Q What could you see? 13:06</p> <p>23 A I could see the injury. I could see 13:06</p> <p>24 the lack of ability of mobility. I could see</p> <p>25 inability to spend the time that was needed.</p>	<p style="text-align: right;">Page 107</p> <p>1 N. Rogers</p> <p>2 being done. If the job isn't being handled</p> <p>3 correctly, then that's how it affected it.</p> <p>4 Q I may have misunderstood. I am 13:09</p> <p>5 asking again. I understood from your earlier</p> <p>6 testimony that as gradually Ed Paradiso's ability</p> <p>7 to perform what you saw as the full spectrum of</p> <p>8 duties as the Ocean Beach police chief declined,</p> <p>9 that gradually George Hesse came to be performing</p> <p>10 those duties in place of Ed Paradiso. Is that</p> <p>11 correct?</p> <p>12 A That is correct, because he was the 13:09</p> <p>13 next in line to do those jobs.</p> <p>14 Q Okay. So what was it that was not 13:10</p> <p>15 being done at the Ocean Beach Police Department</p> <p>16 that was adversely affecting the Police</p> <p>17 Department?</p> <p>18 MR. NOVIKOFF: Objection, form, asked 13:10</p> <p>19 and answered.</p> <p>20 A I think I did answer that. 13:10</p> <p>21 MR. NOVIKOFF: Got to do it again. 13:10</p> <p>22 That would be the rule.</p> <p>23 A He physically could not get around as 13:10</p> <p>24 much as he should and had been doing. It affected</p> <p>25 his ability to do the scheduling and to be where</p>
<p style="text-align: right;">Page 106</p> <p>1 N. Rogers</p> <p>2 These are things that I could observe myself and</p> <p>3 see, as could other trustees.</p> <p>4 Q And upon observing what you just 13:07</p> <p>5 referred to, did you conclude that the functioning</p> <p>6 of the Ocean Beach Police Department was adversely</p> <p>7 affected?</p> <p>8 MR. NOVIKOFF: Objection to form. 13:07</p> <p>9 A Yes. 13:07</p> <p>10 Q In what way was it adversely 13:07</p> <p>11 affected?</p> <p>12 A I think I answered that. The person 13:07</p> <p>13 who was the chief of police was not doing or able</p> <p>14 to do all of the duties that would be appropriate</p> <p>15 and considered normal for the job and had been</p> <p>16 normal for the job.</p> <p>17 Q And specifically what duties was he 13:08</p> <p>18 not performing?</p> <p>19 A His mobility was limited, severely 13:08</p> <p>20 limited. He could not devote the time to all of</p> <p>21 the activities that he should have been doing.</p> <p>22 Q And how did that adversely affect the 13:08</p> <p>23 Police Department?</p> <p>24 MR. NOVIKOFF: Objection. 13:09</p> <p>25 A There were some things that weren't 13:09</p>	<p style="text-align: right;">Page 108</p> <p>1 N. Rogers</p> <p>2 he had to be all over the Village at different</p> <p>3 times when he was supposed to be.</p> <p>4 Q How do you know that it affected his 13:10</p> <p>5 ability to do the scheduling?</p> <p>6 MR. NOVIKOFF: Objection to form. 13:10</p> <p>7 A Because he didn't do all the 13:11</p> <p>8 scheduling.</p> <p>9 Q Were the schedules -- was the 13:11</p> <p>10 scheduling not being done?</p> <p>11 MR. NOVIKOFF: Objection, form. 13:11</p> <p>12 A I believe George Hesse was doing the 13:11</p> <p>13 scheduling on an -- as he gradually assumed,</p> <p>14 with -- without any objection, certain functions.</p> <p>15 Q How did you learn that he had assumed 13:11</p> <p>16 the scheduling function at that time?</p> <p>17 A Observation and conversation. 13:11</p> <p>18 Q Conversations with whom? 13:11</p> <p>19 A I cannot be specific as to whom. 13:11</p> <p>20 Q Can you identify any person? 13:12</p> <p>21 A Ed Paradiso, George Hesse, trustees. 13:12</p> <p>22 Q Did Ed Paradiso indicate to you in 13:12</p> <p>23 any conversation that George Hesse had been taking</p> <p>24 over his responsibilities for scheduling?</p> <p>25 A He may have. I cannot specifically 13:12</p>

<p style="text-align: right;">Page 109</p> <p>1 N. Rogers</p> <p>2 give you a time.</p> <p>3 Q Did he indicate to you, that is did 13:12</p> <p>4 Ed Paradiso indicate to you that he believed that</p> <p>5 George Hesse was effectively filling his duties</p> <p>6 with respect to scheduling?</p> <p>7 MR. NOVIKOFF: Objection. 13:12</p> <p>8 A No. 13:13</p> <p>9 Q What did you observe that led you to 13:13</p> <p>10 conclude that George Hesse had been assuming Ed</p> <p>11 Paradiso's scheduling duties?</p> <p>12 A The fact that he did it. 13:13</p> <p>13 Q And I believe I had asked you before, 13:13</p> <p>14 how did you learn that George Hesse had been</p> <p>15 filling Ed Paradiso's scheduling duties? You said</p> <p>16 observation and conversation. What I am asking</p> <p>17 now is, what did you observe that led you to</p> <p>18 conclude that that's what George Hesse had been</p> <p>19 doing?</p> <p>20 MR. NOVIKOFF: Objection to the 13:13</p> <p>21 characterization of the prior testimony.</p> <p>22 Objection to the form of the question.</p> <p>23 You can answer. I believe you 13:13</p> <p>24 answered it, but you can answer again.</p> <p>25 A There had to be some conversation as 13:14</p>	<p style="text-align: right;">Page 111</p> <p>1 N. Rogers</p> <p>2 of tape number three. The time is now</p> <p>3 2:11 p.m.</p> <p>4 We are now back on the record. 14:12</p> <p>5 MR. GRAFF: Could the court reporter 14:12</p> <p>6 please read back the last three or four</p> <p>7 questions and answers before we took lunch.</p> <p>8 (Record read.) 14:13</p> <p>9 BY MR. GRAFF: 14:13</p> <p>10 Q Mayor Rogers, what evidence did you 14:13</p> <p>11 have that led you to conclude that as Ed</p> <p>12 Paradiso's medical condition gradually resulted in</p> <p>13 the diminution of the duties that he was</p> <p>14 performing, what information did you have that led</p> <p>15 you to believe that George Hesse had been taking</p> <p>16 on his budgetary duties?</p> <p>17 MR. NOVIKOFF: Objection to form. 14:14</p> <p>18 A Ed Paradiso was spending less time in 14:14</p> <p>19 the Village. He was going to doctors. His</p> <p>20 mobility had decreased. He just was not being</p> <p>21 there, and not functioning. I -- I can't say it</p> <p>22 any clearer than that.</p> <p>23 As far as George Hesse, as second in 14:14</p> <p>24 command, he picked up the pieces and he did the</p> <p>25 work that had to be done.</p>
<p style="text-align: right;">Page 110</p> <p>1 N. Rogers</p> <p>2 to, are the schedules worked out and is everything</p> <p>3 covered, and the answer was yes.</p> <p>4 Q Do you recall any such conversation? 13:14</p> <p>5 A I cannot give you any details on the 13:14</p> <p>6 conversation more than I have given you.</p> <p>7 Q Other than what you have already 13:14</p> <p>8 testified to, did you have -- was there any other</p> <p>9 information that you had that led you to believe</p> <p>10 that George Hesse had been assuming Ed Paradiso's</p> <p>11 duties with respect to scheduling?</p> <p>12 MR. NOVIKOFF: Objection to the form 13:14</p> <p>13 of the question.</p> <p>14 You can answer. 13:14</p> <p>15 A No. 13:14</p> <p>16 MR. NOVIKOFF: All right. It's 1:15. 13:14</p> <p>17 Why don't we take a break now, and we will</p> <p>18 be back at 2:15?</p> <p>19 MR. GRAFF: Yes. Let's go off the 13:14</p> <p>20 record, please.</p> <p>21 THE VIDEOGRAPHER: The time is now 13:14</p> <p>22 1:14 p.m.</p> <p>23 We are now off the record. 13:15</p> <p>24 (Recess taken.) 13:15</p> <p>25 THE VIDEOGRAPHER: This is the start 14:12</p>	<p style="text-align: right;">Page 112</p> <p>1 N. Rogers</p> <p>2 Q My question is, what evidence did you 14:14</p> <p>3 have that George Hesse had been picking up the</p> <p>4 pieces and doing the work in connection with</p> <p>5 budgetary duties?</p> <p>6 MR. NOVIKOFF: Objection to form. 14:14</p> <p>7 You can answer again, Ms. Rogers. 14:14</p> <p>8 A Budgetary things had to do with 14:15</p> <p>9 scheduling. A budget gets passed once a year, and</p> <p>10 you do have a format that you have to stay with as</p> <p>11 far as a budget goes, but you schedule consistent</p> <p>12 with what the approved budget is.</p> <p>13 Q Okay. My question is, how did you 14:15</p> <p>14 know that it was George Hesse who was fulfilling</p> <p>15 those duties and not Ed Paradiso?</p> <p>16 MR. NOVIKOFF: Objection. Asked and 14:15</p> <p>17 answered.</p> <p>18 You can answer. 14:15</p> <p>19 A Ed was not there to do it. George 14:15</p> <p>20 did it.</p> <p>21 Q How did you know that Ed was not 14:15</p> <p>22 there to do those duties?</p> <p>23 MR. NOVIKOFF: Objection. 14:15</p> <p>24 A He was off the island. He was 14:15</p> <p>25 physically not there. We knew it because we saw</p>

<p style="text-align: right;">Page 113</p> <p>1 N. Rogers</p> <p>2 that he was physically not there.</p> <p>3 Q When you say "not there" -- 14:16</p> <p>4 A Not there in Ocean Beach. 14:16</p> <p>5 MR. NOVIKOFF: Let him ask the 14:16</p> <p>6 question.</p> <p>7 A Sorry, excuse me. 14:16</p> <p>8 Q Can you think of any occasions when 14:16</p> <p>9 you tried to find him in Ocean Beach and</p> <p>10 discovered that he was not there?</p> <p>11 A No. 14:16</p> <p>12 Q Did Ed Paradiso ever tell you that at 14:16</p> <p>13 that time he was not able to attend to his duties</p> <p>14 with respect to the budget?</p> <p>15 A The budget had been passed. With 14:16</p> <p>16 respect to scheduling and other things, if he was</p> <p>17 not there and not doing it and somebody else was</p> <p>18 doing it, it was a matter of observation.</p> <p>19 Q What evidence did you have that he 14:17</p> <p>20 was not there and not doing it?</p> <p>21 MR. NOVIKOFF: Objection. 14:17</p> <p>22 You can answer again. 14:17</p> <p>23 A My eyes. 14:17</p> <p>24 Q Can you recall any occasion when you 14:17</p> <p>25 observed that George Hesse was fulfilling those</p>	<p style="text-align: right;">Page 115</p> <p>1 N. Rogers</p> <p>2 that you had that George Hesse was fulfilling Ed</p> <p>3 Paradiso's responsibilities with respect to budget</p> <p>4 and scheduling?</p> <p>5 MR. NOVIKOFF: Are you done? 14:19</p> <p>6 BY MR. GRAFF: 14:19</p> <p>7 Q At that time. 14:19</p> <p>8 MR. NOVIKOFF: Objection. 14:19</p> <p>9 A Schedules were filed at the Village 14:19</p> <p>10 office by him.</p> <p>11 Q By whom? 14:19</p> <p>12 A By Mr. Hesse. 14:19</p> <p>13 Q Did Mr. Hesse, himself, personally 14:19</p> <p>14 bring schedules to file at the Village office?</p> <p>15 MR. NOVIKOFF: Objection, form. 14:19</p> <p>16 A I don't know. 14:19</p> <p>17 Q How do you know that Mr. Hesse was 14:19</p> <p>18 filing schedules at the Village office?</p> <p>19 MR. NOVIKOFF: Objection, form. 14:19</p> <p>20 A These papers were filed. 14:19</p> <p>21 Q How do you know that they were not 14:19</p> <p>22 filed by Ed Paradiso?</p> <p>23 A I didn't see the papers being filed. 14:19</p> <p>24 I can't answer that.</p> <p>25 Q Okay. I understand that you didn't 14:20</p>
<p style="text-align: right;">Page 114</p> <p>1 N. Rogers</p> <p>2 duties in place of Ed Paradiso?</p> <p>3 MR. NOVIKOFF: Objection to the form 14:17</p> <p>4 of the question.</p> <p>5 You can answer. 14:17</p> <p>6 A I can't think of a particular 14:17</p> <p>7 incident, except for the fact that he did discuss</p> <p>8 it with us as -- at board meetings, at a board of</p> <p>9 trustees meeting, that he was doing the job of</p> <p>10 scheduling.</p> <p>11 Q When you say "he," are you referring 14:18</p> <p>12 to --</p> <p>13 A That Mr. Hesse. 14:18</p> <p>14 MR. NOVIKOFF: Let him ask the 14:18</p> <p>15 question.</p> <p>16 Q Was it Mr. Hesse who told you that 14:18</p> <p>17 he, Mr. Hesse, was doing the duties of budget and</p> <p>18 scheduling?</p> <p>19 MR. NOVIKOFF: Objection, form. 14:18</p> <p>20 A He might have. 14:18</p> <p>21 Q Do you have any evidence that he did 14:18</p> <p>22 tell you that?</p> <p>23 A No. 14:18</p> <p>24 Q Other than what you have already 14:18</p> <p>25 testified to today, is there any other evidence</p>	<p style="text-align: right;">Page 116</p> <p>1 N. Rogers</p> <p>2 see the papers being filed. Do you have any</p> <p>3 knowledge or evidence to support your statement</p> <p>4 that the papers were being filed by George Hesse</p> <p>5 and not Ed Paradiso?</p> <p>6 MR. NOVIKOFF: Objection, form. 14:20</p> <p>7 A Only having been told by the Village 14:20</p> <p>8 office.</p> <p>9 Q Who in the Village office told you 14:20</p> <p>10 that?</p> <p>11 A It might have been the administrator, 14:20</p> <p>12 Marianne Minerva.</p> <p>13 Q Do you recall Marianne Minerva 14:20</p> <p>14 telling you that information?</p> <p>15 MR. NOVIKOFF: Objection. 14:20</p> <p>16 You can answer. 14:20</p> <p>17 A Not specifically, no. 14:20</p> <p>18 Q When you say that it might have been 14:21</p> <p>19 Marianne Minerva, what is the basis for your</p> <p>20 suggesting that it might have been Marianne</p> <p>21 Minerva?</p> <p>22 A Because that was the proper method of 14:21</p> <p>23 doing it, of filing schedule papers or papers of</p> <p>24 schedules for police officers.</p> <p>25 Q I am asking now why you believe that 14:21</p>

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<p>1 N. Rogers</p> <p>2 Marianne Minerva might have told you that George</p> <p>3 Hesse and not Ed Paradiso had been filing</p> <p>4 schedules at the Village office.</p> <p>5 MR. NOVIKOFF: Counsel, you just 14:21</p> <p>6 asked that question, she just answered it.</p> <p>7 Objection. This is now becoming borderline</p> <p>8 harassing.</p> <p>9 MR. GRAFF: The answers have not been 14:22</p> <p>10 responsive. I am not harassing the witness.</p> <p>11 MR. NOVIKOFF: You just don't like 14:22</p> <p>12 the answers you are getting.</p> <p>13 Ms. Rogers, you can answer the 14:22</p> <p>14 question again.</p> <p>15 Actually, can you read it back. Just 14:22</p> <p>16 read the question back so you have it,</p> <p>17 please.</p> <p>18 (Record read.) 14:22</p> <p>19 A Ed was not there to file them. 14:22</p> <p>20 George Hesse filed them.</p> <p>21 Q What evidence do you have that 14:22</p> <p>22 indicates or indicated to you that George Hesse</p> <p>23 was filing the schedules at that time?</p> <p>24 MR. NOVIKOFF: Objection to the form. 14:22</p> <p>25 I think she just told you.</p>	<p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Objection. 14:24</p> <p>3 Q And do you recall how you knew that 14:24</p> <p>4 Ed Paradiso was not there to be doing it himself?</p> <p>5 MR. NOVIKOFF: Objection, asked -- 14:24</p> <p>6 Q Specifically here to be filing the 14:24</p> <p>7 schedules himself.</p> <p>8 MR. NOVIKOFF: Objection, asked and 14:24</p> <p>9 answered for about the sixth time now.</p> <p>10 MR. GRAFF: Counsel, the answers have 14:24</p> <p>11 not been responsive to the question.</p> <p>12 MR. NOVIKOFF: Then you make a 14:24</p> <p>13 motion, you make the appropriate motion on</p> <p>14 the record that they are nonresponsive.</p> <p>15 They are responsive. You have asked 14:24</p> <p>16 her now five different occasions how she</p> <p>17 knows. She says through her own eyesight</p> <p>18 and being told by someone at the Village</p> <p>19 clerk. You then asked her to explain it and</p> <p>20 she has.</p> <p>21 MR. GRAFF: I have ruled out now that 14:24</p> <p>22 she can recall who told her. I'm asking --</p> <p>23 MR. NOVIKOFF: Ms. Rogers, answer the 14:25</p> <p>24 question again.</p> <p>25 A Ed was not there to file the papers. 14:25</p>
Page 118	Page 120
<p>1 N. Rogers</p> <p>2 But you can answer it again. 14:22</p> <p>3 A I do not recall. 14:23</p> <p>4 Q Is it your testimony that you had 14:23</p> <p>5 some such evidence that you cannot recall now?</p> <p>6 MR. NOVIKOFF: Her testimony is her 14:23</p> <p>7 testimony, Counselor. Objection.</p> <p>8 If you can answer the question, 14:23</p> <p>9 Ms. Rogers, please do so.</p> <p>10 A There is no -- nothing that I can 14:23</p> <p>11 recall that would qualify as to the word</p> <p>12 "evidence."</p> <p>13 Q Okay. What information did you have 14:23</p> <p>14 that led you to conclude, as you have testified,</p> <p>15 that George Hesse was filing the schedules at the</p> <p>16 Village office instead of Ed Paradiso?</p> <p>17 MR. NOVIKOFF: Objection. She has 14:24</p> <p>18 answered this now about three times.</p> <p>19 But go ahead, do it again. 14:24</p> <p>20 A The same way. Ed wasn't there to 14:24</p> <p>21 file them, George was there to file them. I was</p> <p>22 told that he filed the papers and I believed it.</p> <p>23 Q But you don't recall who told you 14:24</p> <p>24 that?</p> <p>25 A No. 14:24</p>	<p>1 N. Rogers</p> <p>2 George did file the schedules.</p> <p>3 MR. GRAFF: Okay. Move to strike as 14:25</p> <p>4 nonresponsive.</p> <p>5 MR. NOVIKOFF: Okay. 14:25</p> <p>6 BY MR. GRAFF: 14:25</p> <p>7 Q The question I want to know is, I 14:25</p> <p>8 understand that you believe and have testified and</p> <p>9 concluded --</p> <p>10 MR. NOVIKOFF: Counselor, no one at 14:25</p> <p>11 this side of the table cares what you</p> <p>12 understand or don't understand. Just ask</p> <p>13 the question.</p> <p>14 MR. GRAFF: Mr. Novikoff -- 14:25</p> <p>15 MR. NOVIKOFF: You are belaboring 14:25</p> <p>16 this to the point of the cow being dead.</p> <p>17 Just ask the question, please. Don't</p> <p>18 preface your questions by saying what you</p> <p>19 understand or what you don't understand or</p> <p>20 that you are sorry or you are not sorry.</p> <p>21 The point of a deposition, Counselor, 14:25</p> <p>22 is to ask the questions of the witness, not</p> <p>23 to explain to the witness what you</p> <p>24 understand or not understand. So, please.</p> <p>25 We are going to be here for a very long time</p>

<p style="text-align: right;">Page 121</p> <p>1 N. Rogers</p> <p>2 today. Just ask the witness the questions</p> <p>3 you want to ask.</p> <p>4 MR. GRAFF: Mr. Novikoff, your 14:26</p> <p>5 extended commentary was not proper. I would</p> <p>6 ask you to refrain from continuing to</p> <p>7 disrupt the deposition in this manner.</p> <p>8 MR. NOVIKOFF: I don't think any 14:26</p> <p>9 other counsel here thinks I'm disrupting the</p> <p>10 deposition, but please ask the question.</p> <p>11 She will answer it again.</p> <p>12 MR. GRAFF: Could the court reporter, 14:26</p> <p>13 please -- I'm sorry. I believe you actually</p> <p>14 interrupted the question.</p> <p>15 MR. NOVIKOFF: Okay. 14:26</p> <p>16 MR. GRAFF: I will start again. 14:26</p> <p>17 MR. NOVIKOFF: Sure. 14:26</p> <p>18 BY MR. GRAFF: 14:26</p> <p>19 Q Was there any information that served 14:26</p> <p>20 as the basis for your determination that Ed</p> <p>21 Paradiso was not there to file the schedules and</p> <p>22 that George Hesse was filing the schedules?</p> <p>23 MS. McEACHIN: Objection. 14:26</p> <p>24 MR. NOVIKOFF: Objection, form. 14:26</p> <p>25 A I can only answer the same way I have 14:27</p>	<p style="text-align: right;">Page 123</p> <p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Objection. 14:28</p> <p>3 You can answer, Ms. Rogers. 14:28</p> <p>4 A I believe it was Marianne Minerva, to 14:28</p> <p>5 the best of my recollection.</p> <p>6 Q Did you ask Ed Paradiso why George 14:28</p> <p>7 Hesse was filing the schedules that were Ed</p> <p>8 Paradiso's responsibility to file?</p> <p>9 MR. NOVIKOFF: Objection to the form 14:29</p> <p>10 and the foundation of that question.</p> <p>11 You may answer, Ms. Rogers. 14:29</p> <p>12 A Did I ask, is the question; is that 14:29</p> <p>13 correct?</p> <p>14 Q Yes. 14:29</p> <p>15 A The answer is no. 14:29</p> <p>16 Q Did you speak with George Hesse to 14:29</p> <p>17 confirm that he was, as you believed, filing the</p> <p>18 schedules in place of Ed Paradiso?</p> <p>19 MR. NOVIKOFF: Objection. 14:29</p> <p>20 A I don't recall. 14:29</p> <p>21 Q As Ocean Beach police commissioner, 14:29</p> <p>22 did you have the authority to hire Ocean Beach</p> <p>23 police officers?</p> <p>24 MR. NOVIKOFF: Objection to the form 14:30</p> <p>25 of the question.</p>
<p style="text-align: right;">Page 122</p> <p>1 N. Rogers</p> <p>2 been answering. Ed was not there. He did not</p> <p>3 file the papers.</p> <p>4 Q How do you know that? 14:27</p> <p>5 A I am not -- 14:27</p> <p>6 MR. NOVIKOFF: Objection, form. 14:27</p> <p>7 Answer it again, Ms. Rogers. 14:27</p> <p>8 A If he wasn't there, he wasn't there, 14:27</p> <p>9 I know that. He wasn't there; therefore, the</p> <p>10 papers were filed by the only other person who</p> <p>11 could have filed schedules, papers. I know that.</p> <p>12 Q So you inferred that George Hesse was 14:27</p> <p>13 filing them instead of Ed Paradiso?</p> <p>14 A No, I knew. 14:27</p> <p>15 Q How did you know that to be the case? 14:27</p> <p>16 MR. NOVIKOFF: Objection, asked and 14:28</p> <p>17 answered.</p> <p>18 Answer it again. 14:28</p> <p>19 It's your seven hours, Counselor. 14:28</p> <p>20 A I was told they had been filed by 14:28</p> <p>21 George in the proper format.</p> <p>22 Q And to be clear, do you recall who 14:28</p> <p>23 told you that?</p> <p>24 MS. McEACHIN: Objection, asked and 14:28</p> <p>25 answered.</p>	<p style="text-align: right;">Page 124</p> <p>1 N. Rogers</p> <p>2 You can answer. 14:30</p> <p>3 A I don't know what the legal authority 14:30</p> <p>4 was.</p> <p>5 Q As Ocean Beach police commissioner, 14:30</p> <p>6 did you participate in the hiring process for any</p> <p>7 Ocean Beach police officer?</p> <p>8 MR. NOVIKOFF: You mean separate and 14:30</p> <p>9 apart from her role as Mayor at the same</p> <p>10 time? That's what I am trying to figure</p> <p>11 out. And other than a distinction</p> <p>12 between --</p> <p>13 MR. GRAFF: No. I am asking during 14:30</p> <p>14 the time that she was police commissioner as</p> <p>15 opposed to the time when she was Mayor prior</p> <p>16 to that. So in either capacity, either as</p> <p>17 police commissioner --</p> <p>18 MR. NOVIKOFF: The question is, as 14:30</p> <p>19 police commissioner and/or Mayor, did you</p> <p>20 have the authority to --</p> <p>21 MR. GRAFF: Yes. 14:30</p> <p>22 MR. NOVIKOFF: Okay. 14:30</p> <p>23 THE WITNESS: I don't think he asked 14:30</p> <p>24 about authority. I think he asked did I</p> <p>25 ever hire.</p>

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<p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Well, why don't we get 14:30</p> <p>3 the question back, and then if the court</p> <p>4 reporter could read the question, we can</p> <p>5 hear the question.</p> <p>6 MR. GRAFF: To save time -- 14:30</p> <p>7 MR. NOVIKOFF: Okay. 14:30</p> <p>8 MR. GRAFF: Actually, please, could 14:30</p> <p>9 you read the question back.</p> <p>10 (Record read.) 14:30</p> <p>11 A No. 14:31</p> <p>12 Q As Mayor, did you participate in the 14:31</p> <p>13 hiring process for any Ocean Beach police officer?</p> <p>14 A No. 14:31</p> <p>15 Q Who, if anyone, in Ocean Beach was 14:31</p> <p>16 responsible for hiring Ocean Beach police</p> <p>17 officers?</p> <p>18 A The Ocean Beach chief of police. 14:31</p> <p>19 Q At some point in time, did Ed 14:31</p> <p>20 Paradiso, who had been chief of police, stop</p> <p>21 having the responsibility for hiring Ocean Beach</p> <p>22 police officers?</p> <p>23 MS. McEACHIN: Objection. 14:32</p> <p>24 MR. NOVIKOFF: Objection to the form. 14:32</p> <p>25 A Yes. 14:32</p>	<p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Objection, form. 14:33</p> <p>3 You can answer. 14:33</p> <p>4 A Not to my knowledge. 14:33</p> <p>5 Q Who, if anyone, at Ocean Beach had 14:33</p> <p>6 the authority to terminate the employment of an</p> <p>7 Ocean Beach police officer?</p> <p>8 A The question was who had the 14:34</p> <p>9 authority?</p> <p>10 MR. GRAFF: Could the court reporter 14:34</p> <p>11 please read back my last question.</p> <p>12 (Record read.) 14:34</p> <p>13 A I believe it to be the police chief. 14:34</p> <p>14 Q As Mayor of Ocean Beach, Mayor and/or 14:34</p> <p>15 police commissioner of Ocean Beach, did you have</p> <p>16 the authority to hire any employees at Ocean</p> <p>17 Beach?</p> <p>18 MR. NOVIKOFF: Objection. 14:34</p> <p>19 You can answer. 14:34</p> <p>20 A I had the authority to and I did hire 14:34</p> <p>21 some Ocean Beach personnel.</p> <p>22 Q What were the positions at Ocean 14:35</p> <p>23 Beach that you had the authority to hire employees</p> <p>24 to fill?</p> <p>25 A Upon the resignation of the then 14:35</p>
Page 126	Page 128
<p>1 N. Rogers</p> <p>2 Q At what point in time did he cease to 14:32</p> <p>3 have the authority to hire Ocean Beach police</p> <p>4 officers?</p> <p>5 A When he stopped functioning and was 14:32</p> <p>6 unable to function as police chief.</p> <p>7 Q Did that occur prior to the time when 14:32</p> <p>8 the Village board of trustees voted to formalize</p> <p>9 George Hesse's role as acting police chief?</p> <p>10 A Yes. 14:32</p> <p>11 Q How long prior to that time did Ed 14:32</p> <p>12 Paradiso cease to have the authority to hire Ocean</p> <p>13 Beach police officers?</p> <p>14 A I do not know. 14:33</p> <p>15 Q Do you know if it was more than one 14:33</p> <p>16 year?</p> <p>17 A I don't believe so. 14:33</p> <p>18 Q Do you know if it was more than six 14:33</p> <p>19 months?</p> <p>20 A I don't know. 14:33</p> <p>21 Q Other than Ed Paradiso and later 14:33</p> <p>22 George Hesse, did anyone else at Ocean Beach have</p> <p>23 the authority to hire Ocean Beach police officers</p> <p>24 during the time that you served as Mayor of Ocean</p> <p>25 Beach?</p>	<p>1 N. Rogers</p> <p>2 administrator, I hired a new administrator.</p> <p>3 Q Did you hire employees for any other 14:35</p> <p>4 positions at Ocean Beach during the period that</p> <p>5 you served as Mayor and/or police commissioner?</p> <p>6 A The word is "hire." No. 14:35</p> <p>7 Q Did you ever effectuate the 14:35</p> <p>8 termination of any employee at Ocean Beach during</p> <p>9 the period that you served as Mayor and/or police</p> <p>10 commissioner?</p> <p>11 A No. 14:36</p> <p>12 Q To your knowledge, did you have the 14:36</p> <p>13 authority to terminate any employees at Ocean</p> <p>14 Beach during the period that you served as Mayor</p> <p>15 and/or police commissioner?</p> <p>16 A I might have had the authority. 14:36</p> <p>17 Q As you sit here today, do you know if 14:36</p> <p>18 you did have that authority.</p> <p>19 A No, I do not know about the 14:36</p> <p>20 authority.</p> <p>21 Q To your knowledge, were any police 14:37</p> <p>22 officers at Ocean Beach terminated during the</p> <p>23 period that you served as Mayor and/or police</p> <p>24 commissioner?</p> <p>25 A To my knowledge, no. 14:37</p>

<p style="text-align: right;">Page 129</p> <p>1 N. Rogers</p> <p>2 Q Do you have any information regarding 14:37</p> <p>3 whether any Ocean Beach police officers were</p> <p>4 terminated during the period that you served as</p> <p>5 Mayor and/or police commissioner?</p> <p>6 MR. NOVIKOFF: Wait a minute. I have 14:37</p> <p>7 to stop on that one. This one I have to</p> <p>8 speak.</p> <p>9 You asked her, to her knowledge, was 14:37</p> <p>10 any police officers terminated, and she said</p> <p>11 no. Now you are asking if she has any</p> <p>12 information with regard to the nonexistence</p> <p>13 of a fact?</p> <p>14 MR. GRAFF: She said "not to my 14:38</p> <p>15 knowledge," Counsel. I just want to make</p> <p>16 sure that that was not with an emphasis on</p> <p>17 knowledge and some other information.</p> <p>18 MR. NOVIKOFF: You can answer the 14:38</p> <p>19 question.</p> <p>20 Object to form. 14:38</p> <p>21 A No. 14:38</p> <p>22 Q Did -- as Mayor and/or police 14:38</p> <p>23 Commissioner of Ocean Beach, did you have an</p> <p>24 office at Ocean Beach?</p> <p>25 MS. McEACHIN: Objection. What do 14:38</p>	<p style="text-align: right;">Page 131</p> <p>1 N. Rogers</p> <p>2 possession for you to read?</p> <p>3 A They were put in a mailbox that 14:39</p> <p>4 myself and each one of the trustees had separate</p> <p>5 mailboxes inside the Village office where we came</p> <p>6 in and picked up our mail and other material</p> <p>7 designated for us.</p> <p>8 Q And would the envelopes be opened 14:40</p> <p>9 when those letters were put in your box or --</p> <p>10 A I believe so. 14:40</p> <p>11 Q Do you know who was responsible for 14:40</p> <p>12 opening the envelopes and putting them in your</p> <p>13 box?</p> <p>14 A No. 14:40</p> <p>15 Q Do you have any reason to believe 14:40</p> <p>16 that letters that were addressed to you that were</p> <p>17 opened were not put in your box?</p> <p>18 MR. NOVIKOFF: Objection. 14:40</p> <p>19 You can answer it to the extent you 14:40</p> <p>20 understand it.</p> <p>21 A No, I have no reason to believe such. 14:40</p> <p>22 Q Where would you keep letters that you 14:40</p> <p>23 received in your capacity as Mayor and/or police</p> <p>24 commissioner of Ocean Beach after you had read</p> <p>25 them?</p>
<p style="text-align: right;">Page 130</p> <p>1 N. Rogers</p> <p>2 you mean by office? Office as a position or</p> <p>3 office as a physical --</p> <p>4 MR. GRAFF: A physical office. 14:38</p> <p>5 A No. 14:38</p> <p>6 Q Did you have a desk where you worked 14:38</p> <p>7 during your service as Mayor of Ocean Beach?</p> <p>8 A No. 14:38</p> <p>9 Q Did you ever receive correspondence, 14:39</p> <p>10 letters, during the period that you worked as</p> <p>11 Mayor and/or police commissioner of Ocean Beach?</p> <p>12 And I am referring now to receive letters</p> <p>13 addressed to you in your capacity as Mayor and/or</p> <p>14 police commissioner.</p> <p>15 A Yes. 14:39</p> <p>16 Q What address would those letters be 14:39</p> <p>17 addressed to?</p> <p>18 MR. NOVIKOFF: Objection. 14:39</p> <p>19 You can answer. 14:39</p> <p>20 A The Village office. 14:39</p> <p>21 Q What is the address of the Village 14:39</p> <p>22 office, please?</p> <p>23 A It's a post office address. 14:39</p> <p>24 Q How, to your knowledge, would those 14:39</p> <p>25 letters get from the post office address to your</p>	<p style="text-align: right;">Page 132</p> <p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Objection, form. 14:41</p> <p>3 You can answer. 14:41</p> <p>4 A I had extensive files in my home. 14:41</p> <p>5 Q Do you still have those files in your 14:41</p> <p>6 home?</p> <p>7 A No. 14:41</p> <p>8 Q Other than storing such letters in 14:41</p> <p>9 the files in your home, would you keep copies of</p> <p>10 those letters anywhere else?</p> <p>11 MR. NOVIKOFF: Objection, form. 14:41</p> <p>12 A Sometimes. 14:41</p> <p>13 Q Where else would you keep letters of 14:41</p> <p>14 that nature?</p> <p>15 A In the appropriate file in the 14:41</p> <p>16 Village office if I deemed them advisable to keep</p> <p>17 copies.</p> <p>18 Q And would you personally put the 14:41</p> <p>19 letters in the files at the Village office?</p> <p>20 A No. I would hand them to a clerk to 14:41</p> <p>21 file.</p> <p>22 MR. NOVIKOFF: Just answer the 14:42</p> <p>23 question.</p> <p>24 A Sorry. No. 14:42</p> <p>25 Q How would you determine whether such 14:42</p>

33 (Pages 129 to 132)

<p style="text-align: right;">Page 133</p> <p>1 N. Rogers</p> <p>2 a letter would be filed in the Village office and</p> <p>3 not solely in your personal files at home?</p> <p>4 MS. McEACHIN: Objection to the 14:42</p> <p>5 question. What letter?</p> <p>6 MR. GRAFF: Such a letter that is 14:42</p> <p>7 letters that she received in her capacity as</p> <p>8 Mayor and/or police commissioner of Ocean</p> <p>9 Beach.</p> <p>10 MS. McEACHIN: That was over several 14:42</p> <p>11 years; correct?</p> <p>12 MR. GRAFF: Yes. 14:42</p> <p>13 MS. McEACHIN: Okay, go ahead. 14:42</p> <p>14 Q And to clarify, at any point during 14:42</p> <p>15 the period that you served as Mayor and/or police</p> <p>16 commissioner, was there any procedure that you</p> <p>17 followed for determining whether a letter should</p> <p>18 be filed in the Village office?</p> <p>19 MR. NOVIKOFF: Objection to that 14:43</p> <p>20 question.</p> <p>21 A Only my own evaluation. 14:43</p> <p>22 Q During the time that you served as 14:43</p> <p>23 Mayor and/or police commissioner of Ocean Beach,</p> <p>24 who other than the chief of police for the Ocean</p> <p>25 Beach Police Department was responsible for</p>	<p style="text-align: right;">Page 135</p> <p>1 N. Rogers</p> <p>2 Ocean Beach Police Department by the Village of</p> <p>3 Ocean Beach, were there any other sources of</p> <p>4 funding for the operations of the Ocean Beach</p> <p>5 Police Department during the period of time that</p> <p>6 you served as Mayor and/or police commissioner?</p> <p>7 MR. NOVIKOFF: Could you just read 14:45</p> <p>8 that question back.</p> <p>9 (Record read.) 14:45</p> <p>10 A Not to my knowledge. 14:46</p> <p>11 Q To your knowledge -- strike that. 14:46</p> <p>12 Have you ever heard of an entity 14:46</p> <p>13 called the Ocean Beach Police Benevolent</p> <p>14 Association?</p> <p>15 A I may have. 14:46</p> <p>16 Q What, if anything, do you know about 14:46</p> <p>17 the existence of the Ocean Beach Police Benevolent</p> <p>18 Association?</p> <p>19 A Nothing specific. 14:46</p> <p>20 Q Do you recall who, if anyone, ever 14:46</p> <p>21 spoke with you about the Ocean Beach Police</p> <p>22 Benevolent Association?</p> <p>23 MR. NOVIKOFF: Objection, form. 14:47</p> <p>24 A No, I do not. 14:47</p> <p>25 Q During the time that you served as 14:47</p>
<p style="text-align: right;">Page 134</p> <p>1 N. Rogers</p> <p>2 enacting the budget for the Ocean Beach Police</p> <p>3 Department?</p> <p>4 MR. NOVIKOFF: Objection. 14:43</p> <p>5 Q Or for creating the budget? 14:43</p> <p>6 MR. NOVIKOFF: Didn't fix it. 14:43</p> <p>7 Objection.</p> <p>8 A To my knowledge, no one else. 14:44</p> <p>9 Q How would -- to your knowledge, how 14:44</p> <p>10 would the chief of police of the Ocean Beach</p> <p>11 Police Department know the amount of funds that</p> <p>12 were available for the Ocean Beach Police</p> <p>13 Department to be applied to the budget for the</p> <p>14 Ocean Beach Police Department?</p> <p>15 MR. NOVIKOFF: Objection, form, calls 14:44</p> <p>16 for speculation, of what's in someone else's</p> <p>17 mind.</p> <p>18 THE WITNESS: Shall I answer that? 14:44</p> <p>19 MR. NOVIKOFF: If you can, yes. 14:44</p> <p>20 A He would be given, if he didn't have 14:44</p> <p>21 it already, a copy of the prior year's budget and</p> <p>22 told to submit a preliminary for the forthcoming</p> <p>23 year.</p> <p>24 Q And the funds -- strike that. 14:45</p> <p>25 Other than revenues provided to the 14:45</p>	<p style="text-align: right;">Page 136</p> <p>1 N. Rogers</p> <p>2 police commissioner, when budgeted funds would be</p> <p>3 provided to the Ocean Beach Police Department, was</p> <p>4 the Ocean Beach chief of police responsible for</p> <p>5 maintaining records concerning the disbursement or</p> <p>6 how those funds were spent by the Ocean Beach</p> <p>7 Police Department?</p> <p>8 MR. NOVIKOFF: Objection to form. 14:47</p> <p>9 You can answer. 14:47</p> <p>10 A I don't think that was the role of 14:47</p> <p>11 the police chief, no.</p> <p>12 Q To your knowledge, during the time 14:47</p> <p>13 that you served as Ocean Beach police</p> <p>14 commissioner, was anyone in Ocean Beach</p> <p>15 responsible for maintaining records of how the</p> <p>16 Ocean Beach Police Department spent the funds in</p> <p>17 its budget?</p> <p>18 A The Village clerk was responsible for 14:48</p> <p>19 maintaining records of all expenditures.</p> <p>20 Q Do you recall whether you ever spoke 14:48</p> <p>21 with the Village clerk specifically about anything</p> <p>22 concerning the Ocean Beach Police Benevolent</p> <p>23 Association?</p> <p>24 MR. NOVIKOFF: Objection, form. 14:48</p> <p>25 A No. 14:48</p>

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<p>1 N. Rogers</p> <p>2 MR. GRAFF: I'm going to ask the 14:48</p> <p>3 court reporter to please mark as Exhibit</p> <p>4 Rogers 1 a one-page document bearing Bates</p> <p>5 Number 3931.</p> <p>6 MR. NOVIKOFF: And I would ask the 14:49</p> <p>7 court reporter upon marking it to hand it to</p> <p>8 me directly for my review.</p> <p>9 MR. GRAFF: I have a copy for you, 14:49</p> <p>10 Mr. Novikoff.</p> <p>11 MR. NOVIKOFF: Thank you very much. 14:49</p> <p>12 (Rogers Exhibit 1 marked for 14:49</p> <p>13 identification.)</p> <p>14 MR. GRAFF: Where is the exhibit 14:49</p> <p>15 that's been marked Exhibit 1?</p> <p>16 MR. NOVIKOFF: I'm holding it. 14:49</p> <p>17 MR. GRAFF: Mr. Novikoff, could you 14:49</p> <p>18 please put the exhibit in front of the</p> <p>19 witness?</p> <p>20 MR. NOVIKOFF: Is there a question 14:49</p> <p>21 that you want to ask her concerning this</p> <p>22 document?</p> <p>23 MR. GRAFF: Does it matter? 14:49</p> <p>24 MR. NOVIKOFF: Yes, because, sir, I 14:49</p> <p>25 don't want to give you a lesson in evidence,</p>	<p>1 N. Rogers</p> <p>2 the witness a question.</p> <p>3 MR. GRAFF: Mr. Novikoff, your 14:50</p> <p>4 objection to having the document in front of</p> <p>5 the witness has been noted on the record and</p> <p>6 will be preserved.</p> <p>7 MR. NOVIKOFF: That's right, so ask a 14:50</p> <p>8 question, and let's go forward with it.</p> <p>9 You're the one that is delaying this, sir,</p> <p>10 because you are trying to engage me in a</p> <p>11 conversation that is particularly</p> <p>12 meaningless.</p> <p>13 MR. GRAFF: I do not want to engage 14:50</p> <p>14 you in a conversation. I'm asking you to</p> <p>15 please put the document marked as --</p> <p>16 MR. NOVIKOFF: If there is a 14:51</p> <p>17 question, I will give her the document. If</p> <p>18 there isn't a question, the document is not</p> <p>19 going to be in front of her.</p> <p>20 MR. GRAFF: I will ask her a 14:51</p> <p>21 question.</p> <p>22 MR. NOVIKOFF: Fine. Now here is the 14:51</p> <p>23 document, now ask her the question.</p> <p>24 BY MR. GRAFF: 14:51</p> <p>25 Q Mayor Rogers, could you please take a 14:51</p>
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<p>1 N. Rogers</p> <p>2 but all you have done is mark a document as</p> <p>3 a deposition exhibit. Until such time as</p> <p>4 you are inquiring with this witness</p> <p>5 concerning this document, it does not go in</p> <p>6 front of her.</p> <p>7 So if you are going to ask her a 14:50</p> <p>8 question about the document, then I will be</p> <p>9 very happy to hand it to her.</p> <p>10 MR. GRAFF: Mr. Novikoff, if you have 14:50</p> <p>11 an objection to the document being placed in</p> <p>12 front of the witness --</p> <p>13 MR. NOVIKOFF: No objection, sir. If 14:50</p> <p>14 there is a question concerning the document</p> <p>15 that you've marked as an exhibit, I would be</p> <p>16 more than happy to show it to her. So if</p> <p>17 there is a question, ask it.</p> <p>18 MR. GRAFF: Mr. Novikoff -- 14:50</p> <p>19 MR. NOVIKOFF: I will not have this 14:50</p> <p>20 witness have a document in front of her in</p> <p>21 the absence of a question. That is</p> <p>22 completely inappropriate.</p> <p>23 I don't feel the need to give you a 14:50</p> <p>24 lesson in evidence. You've just marked a</p> <p>25 document. It is meaningless until you ask</p>	<p>1 N. Rogers</p> <p>2 moment to review the document that's been put in</p> <p>3 front of you.</p> <p>4 A I have read it. 14:51</p> <p>5 Q Mayor Rogers, have you seen this 14:51</p> <p>6 document before?</p> <p>7 A I think I have. 14:51</p> <p>8 Q Is this a document that you received, 14:52</p> <p>9 as you described earlier, in a -- that had been</p> <p>10 opened and put in a designated mail receptacle at</p> <p>11 the Village office for you?</p> <p>12 A It would have been put in there if I 14:52</p> <p>13 were to receive it, yes.</p> <p>14 Q Do you recall if you saw the document 14:52</p> <p>15 upon receiving it in the Village office?</p> <p>16 MR. NOVIKOFF: Objection, form. 14:52</p> <p>17 A I do not recall where I looked at it. 14:52</p> <p>18 No.</p> <p>19 Q The document is dated April 23, 2006. 14:52</p> <p>20 Do you know what George Hesse's title was as of</p> <p>21 that date?</p> <p>22 MR. NOVIKOFF: Note my objection to 14:53</p> <p>23 the question.</p> <p>24 You can answer. 14:53</p> <p>25 A I believe it was deputy police chief. 14:53</p>

<p style="text-align: right;">Page 141</p> <p>1 N. Rogers</p> <p>2 Q With respect to terminology, is there 14:53</p> <p>3 a distinction between deputy police chief and</p> <p>4 acting police chief that you know of?</p> <p>5 A Not really. 14:53</p> <p>6 Q When the Village board of trustees 14:53</p> <p>7 passed a resolution to formalize George Hesse's</p> <p>8 role as acting police chief, do you recall whether</p> <p>9 that resolution assigned him the title acting</p> <p>10 police chief?</p> <p>11 A Yes, I recall. 14:54</p> <p>12 Q Did it assign him that title? 14:54</p> <p>13 A I believe it was deputy. 14:54</p> <p>14 Q Okay. If you could please look at 14:54</p> <p>15 the letter, it's addressed to you, signed,</p> <p>16 "Sincerely, Frank Fiorillo." It states --</p> <p>17 MR. NOVIKOFF: What it states. It 14:54</p> <p>18 says what it says. So, if you have a</p> <p>19 question, then ask the question.</p> <p>20 MR. GRAFF: Okay. 14:54</p> <p>21 Q I'm going to read a part of the 14:54</p> <p>22 letter. If you believe that it would be helpful</p> <p>23 for you to follow as I read --</p> <p>24 MR. NOVIKOFF: Don't worry, my client 14:54</p> <p>25 is well aware of what her rights are with</p>	<p style="text-align: right;">Page 143</p> <p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: See, I am helpful. Go 14:55</p> <p>3 on.</p> <p>4 MR. GRAFF: I will go on. 14:55</p> <p>5 Q Do you have any evidence to indicate 14:55</p> <p>6 that that is not a truthful statement?</p> <p>7 MR. NOVIKOFF: Objection. 14:55</p> <p>8 You can answer. 14:55</p> <p>9 A No. 14:55</p> <p>10 Q The letter goes on: "On Sunday, 14:55</p> <p>11 April 2nd, 2006, at the annual police department</p> <p>12 meeting, I was told by Deputy Chief George Hesse</p> <p>13 that I was being let go due to budget</p> <p>14 constraints."</p> <p>15 In April, 2006, did you know what 14:56</p> <p>16 "the annual police department meeting" referred</p> <p>17 to, refers to?</p> <p>18 A No. 14:56</p> <p>19 Q Do you recall whether you ever 14:56</p> <p>20 learned that Officer Fiorillo was told or stated</p> <p>21 that he was told that he was being let go from the</p> <p>22 Ocean Beach Police Department due to budget</p> <p>23 constraints?</p> <p>24 MS. McEACHIN: Objection. Have we 14:56</p> <p>25 established whether or not former</p>
<p style="text-align: right;">Page 142</p> <p>1 N. Rogers</p> <p>2 regard to looking at a document.</p> <p>3 If you want to read any part of this 14:54</p> <p>4 letter, by all means do so. If you have a</p> <p>5 question regarding this document, by all</p> <p>6 means ask it.</p> <p>7 MR. GRAFF: Okay. And to be clear, 14:54</p> <p>8 you're holding this document now.</p> <p>9 MR. NOVIKOFF: Yes, to be clear. 14:54</p> <p>10 BY MR. GRAFF: 14:54</p> <p>11 Q "Dear Mayor Rogers" -- 14:54</p> <p>12 MR. GRAFF: And to be clear, I object 14:54</p> <p>13 to that conduct.</p> <p>14 Q "Dear Mayor Rogers: I was employed 14:55</p> <p>15 as a police officer in the incorporated Village of</p> <p>16 Ocean Beach for the past four years."</p> <p>17 Do you have any reason to believe 14:55</p> <p>18 that that is not a true statement, any evidence</p> <p>19 that indicates to you that that was not a true</p> <p>20 statement?</p> <p>21 MR. NOVIKOFF: Objection, compound. 14:55</p> <p>22 A No. 14:55</p> <p>23 Q And just compound, I don't want the 14:55</p> <p>24 question to be confusing. Let me restate it</p> <p>25 again.</p>	<p style="text-align: right;">Page 144</p> <p>1 N. Rogers</p> <p>2 Mayor Rogers even knew who Frank Fiorillo</p> <p>3 was?</p> <p>4 MR. GRAFF: Yes. 14:56</p> <p>5 MR. NOVIKOFF: My question is, 14:56</p> <p>6 separate and apart from reading it on this</p> <p>7 document?</p> <p>8 MR. GRAFF: Either from this document 14:56</p> <p>9 or another source. I know the Mayor was not</p> <p>10 certain whether she had read it.</p> <p>11 MR. NOVIKOFF: You can answer the 14:57</p> <p>12 question.</p> <p>13 Objection to form. 14:57</p> <p>14 A You will have to read that question 14:57</p> <p>15 to me again, say it so I can understand it,</p> <p>16 please.</p> <p>17 MR. GRAFF: Could the court reporter 14:57</p> <p>18 please read back my last question to Mayor</p> <p>19 Rogers.</p> <p>20 (Record read.) 14:57</p> <p>21 MR. NOVIKOFF: My objection stands. 14:57</p> <p>22 A No. 14:57</p> <p>23 Q To your knowledge, were there budget 14:57</p> <p>24 constraints that necessitated that the employment</p> <p>25 of any Ocean Beach police officers end in April,</p>

<p style="text-align: right;">Page 145</p> <p>1 N. Rogers</p> <p>2 2006?</p> <p>3 MR. NOVIKOFF: Objection. 14:57</p> <p>4 You can answer. 14:57</p> <p>5 A To my knowledge, no. 14:57</p> <p>6 Q Do you recall whether you ever asked 14:57</p> <p>7 George Hesse, in April or May, 2006, whether he</p> <p>8 had ended the employment of Officer Fiorillo due</p> <p>9 to budget constraints?</p> <p>10 MR. NOVIKOFF: Objection, form. 14:58</p> <p>11 A No. 14:58</p> <p>12 Q Do you recall whether you ever asked 14:58</p> <p>13 defendant Hesse whether in the year 2006, he</p> <p>14 let -- he ended the employment of any Ocean Beach</p> <p>15 police officer due to budget constraints?</p> <p>16 MR. NOVIKOFF: Form objection. 14:58</p> <p>17 A No. 14:58</p> <p>18 Q The last sentence of this letter 14:58</p> <p>19 states, "At this time" --</p> <p>20 MR. GRAFF: Mr. Novikoff, do you 14:58</p> <p>21 still have that letter?</p> <p>22 MR. NOVIKOFF: It hasn't gone 14:58</p> <p>23 anywhere.</p> <p>24 MR. GRAFF: You have the marked 14:58</p> <p>25 exhibit in front of you?</p>	<p style="text-align: right;">Page 147</p> <p>1 N. Rogers</p> <p>2 letter that you would have filed in the Village</p> <p>3 office?</p> <p>4 A Yes, I would have filed it in the 15:00</p> <p>5 Village office.</p> <p>6 Q And did you also file a copy of this 15:00</p> <p>7 letter in your home?</p> <p>8 A Not to my recollection. 15:00</p> <p>9 Q Have you at any time since -- strike 15:00</p> <p>10 that.</p> <p>11 Did you ever search the files that 15:00</p> <p>12 you maintain in your home to see if there were any</p> <p>13 documents that related to the allegations in this</p> <p>14 lawsuit?</p> <p>15 A No, because -- no. 15:00</p> <p>16 Q Do you know or do you recall why you 15:00</p> <p>17 did not conduct such a search?</p> <p>18 A After I left office, I was cleaning 15:01</p> <p>19 out all or most of the papers that related to</p> <p>20 Ocean Beach and my job.</p> <p>21 Q And by "cleaning out," what do you 15:01</p> <p>22 mean specifically?</p> <p>23 A Throwing out. 15:01</p> <p>24 Q What papers did you retain at that 15:01</p> <p>25 time?</p>
<p style="text-align: right;">Page 146</p> <p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Yes, I do. 14:58</p> <p>3 BY MR. GRAFF: 14:58</p> <p>4 Q The last sentence of the letter 14:58</p> <p>5 states, "At this time I am requesting from you</p> <p>6 personally a letter of recommendation which I can</p> <p>7 use as a reference in future employment."</p> <p>8 Do you recall being asked, whether in 14:59</p> <p>9 writing or otherwise, by Frank Fiorillo for a</p> <p>10 letter of recommendation in April, 2006?</p> <p>11 A I do not recall. 14:59</p> <p>12 Q Do you recall learning at any time 14:59</p> <p>13 that Officer Fiorillo wanted you to provide him</p> <p>14 with a letter of recommendation?</p> <p>15 A It's in the letter. 14:59</p> <p>16 Q Do you recall whether you learned at 14:59</p> <p>17 any time in the year 2006, that Officer Fiorillo,</p> <p>18 wanted you to provide him with a letter of</p> <p>19 recommendation?</p> <p>20 MR. NOVIKOFF: Objection. 14:59</p> <p>21 A It's in the letter. 14:59</p> <p>22 Q Do you recall that you read that in 14:59</p> <p>23 the letter?</p> <p>24 A I believe I read this letter. 14:59</p> <p>25 Q Do you recall whether this was a 15:00</p>	<p style="text-align: right;">Page 148</p> <p>1 N. Rogers</p> <p>2 A I retained a copy of the budget for a 15:01</p> <p>3 while, and a few other documents totally unrelated</p> <p>4 to this.</p> <p>5 Q Can you explain why you decided to 15:01</p> <p>6 throw out documents relating to Ocean Beach at</p> <p>7 that time?</p> <p>8 A I was no longer Mayor, and I had 15:01</p> <p>9 volumes of paperwork.</p> <p>10 Q Did you need to create space in your 15:02</p> <p>11 filing system at that time?</p> <p>12 A Yes. 15:02</p> <p>13 Q When you say "volumes of paperwork," 15:02</p> <p>14 could you estimate how many file drawers those</p> <p>15 volumes filled?</p> <p>16 A Four to six, maybe. 15:02</p> <p>17 Q And at this time, what is filling, if 15:02</p> <p>18 anything, those four to six file drawers?</p> <p>19 A Other things. 15:02</p> <p>20 Q Other documents? 15:02</p> <p>21 A Other things totally unrelated to 15:02</p> <p>22 this.</p> <p>23 Q Were you ever instructed to preserve 15:02</p> <p>24 any documents in connection with this lawsuit?</p> <p>25 MR. NOVIKOFF: Objection. Any 15:02</p>

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<p>1 N. Rogers</p> <p>2 instructions --</p> <p>3 A Instructions -- 15:03</p> <p>4 MR. NOVIKOFF: -- to preserve would 15:03</p> <p>5 have had to, to the extent there were any,</p> <p>6 come from counsel, so wouldn't you think</p> <p>7 that that would be privileged?</p> <p>8 BY MR. GRAFF: 15:03</p> <p>9 Q Did you ever provide any documents 15:03</p> <p>10 that you had been maintaining at home to your</p> <p>11 counsel in connection with this lawsuit?</p> <p>12 A I do not believe so, no. 15:03</p> <p>13 Q In the course of disposing of the 15:03</p> <p>14 documents that we have been discussing, did you</p> <p>15 shred the documents?</p> <p>16 A No. 15:03</p> <p>17 Q Over what period of time specifically 15:03</p> <p>18 did you dispose of the documents that you had been</p> <p>19 maintaining at your home in connection with Ocean</p> <p>20 Beach?</p> <p>21 A Probably two years. 15:04</p> <p>22 Q Starting at what time? 15:04</p> <p>23 A After I no longer was Mayor. I don't 15:04</p> <p>24 know the date I started it.</p> <p>25 Q And you testified that your term as 15:04</p>	<p>1 N. Rogers</p> <p>2 You can answer. 15:05</p> <p>3 A I was aware that there was a lawsuit 15:05</p> <p>4 and that I would do nothing with regard to it.</p> <p>5 Q Do you recall when this lawsuit was 15:05</p> <p>6 filed?</p> <p>7 A No, I do not. 15:06</p> <p>8 Q In general, when you would receive 15:06</p> <p>9 mail at the Village office, would you collect your</p> <p>10 mail on a daily basis?</p> <p>11 A At least several times a week. 15:06</p> <p>12 MR. GRAFF: I'm going to ask the 15:06</p> <p>13 court reporter to please mark as Exhibit</p> <p>14 Rogers 3 a three-page document bearing Bates</p> <p>15 Numbers 3845 to 3847.</p> <p>16 MS. McEACHIN: Excuse me, what 15:06</p> <p>17 happened to Rogers 2?</p> <p>18 MR. GRAFF: I'm sorry, I mean Exhibit 15:06</p> <p>19 Rogers 2.</p> <p>20 (Rogers Exhibit 2 marked for 15:07</p> <p>21 identification.)</p> <p>22 MR. NOVIKOFF: Okay. 15:07</p> <p>23 BY MR. GRAFF: 15:07</p> <p>24 Q Mayor Rogers, could you tell me, 15:07</p> <p>25 please, if you have seen any page of this document</p>
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<p>1 N. Rogers</p> <p>2 Mayor ended on July 3rd, 2006?</p> <p>3 A Correct. 15:04</p> <p>4 Q So, were you continuing to dispose of 15:04</p> <p>5 the documents relating to Ocean Beach all the way</p> <p>6 up until July of this year?</p> <p>7 A Possibly. 15:04</p> <p>8 Q Do you recall whether any of those 15:04</p> <p>9 documents related to the Ocean Beach Police</p> <p>10 Department?</p> <p>11 A No. No, I do not recall. 15:04</p> <p>12 Q Thank you. 15:04</p> <p>13 MR. GRAFF: If you could, 15:05</p> <p>14 Mr. Novikoff, give the exhibit to the court</p> <p>15 reporter, please.</p> <p>16 MR. NOVIKOFF: Sure. 15:05</p> <p>17 BY MR. GRAFF: 15:05</p> <p>18 Q Do you recall if you ever provided a 15:05</p> <p>19 letter of recommendation for Officer Fiorillo?</p> <p>20 A I don't believe I did. 15:05</p> <p>21 Q Do you recall if there was any reason 15:05</p> <p>22 why you did not provide a letter to</p> <p>23 Officer Fiorillo?</p> <p>24 MR. NOVIKOFF: I'm going to object to 15:05</p> <p>25 the form of that question.</p>	<p>1 N. Rogers</p> <p>2 marked as Rogers 2 before.</p> <p>3 MR. NOVIKOFF: Go through each page, 15:07</p> <p>4 and the question is, do you recognize any of</p> <p>5 the three pages of this exhibit.</p> <p>6 A I have to take a look at it and see. 15:07</p> <p>7 Q Please do. 15:07</p> <p>8 A This is 3/30/01. 15:07</p> <p>9 MS. McEACHIN: Can I just ask why 15:09</p> <p>10 this is being marked as one exhibit when</p> <p>11 there is three separate documents that are</p> <p>12 unrelated to one another?</p> <p>13 MR. GRAFF: They were consecutively 15:09</p> <p>14 Bates numbered, and I will note, I cannot</p> <p>15 confirm how many documents these originally</p> <p>16 were, but I have put them together as one</p> <p>17 exhibit because they will be used together</p> <p>18 at the deposition. But I am not</p> <p>19 representing that these three pages at any</p> <p>20 point necessarily were a single document.</p> <p>21 MS. McEACHIN: Okay. Just note my 15:09</p> <p>22 objection.</p> <p>23 A Okay, I have read it. 15:09</p> <p>24 Q I'm sorry, do you need a moment? 15:09</p> <p>25 A No, I have read it. 15:10</p>

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<p style="text-align: right;">Page 153</p> <p>1 N. Rogers</p> <p>2 Q Have you seen any of these three 15:10</p> <p>3 pages before?</p> <p>4 A I do not recall seeing this. 15:10</p> <p>5 Q Okay. If you could please turn to 15:10</p> <p>6 the second page, marked Bates 3846.</p> <p>7 The letter is addressed to Mr. Andrew 15:10</p> <p>8 Miller, police commissioner, and it's stamped at</p> <p>9 the top right-hand corner "Received March 30,</p> <p>10 2001, incorporated Village of Ocean Beach."</p> <p>11 Do you recall whether Mr. Andrew 15:10</p> <p>12 Miller was the police commissioner in March 2001?</p> <p>13 MR. NOVIKOFF: Objection, asked and 15:10</p> <p>14 answered.</p> <p>15 You can answer. 15:10</p> <p>16 A Yes. 15:10</p> <p>17 Q And I think you testified that 15:10</p> <p>18 Mr. Miller ceased to serve as police commissioner</p> <p>19 when he was no longer on the board of trustees.</p> <p>20 MR. NOVIKOFF: Objection. 15:11</p> <p>21 Q Is that correct? 15:11</p> <p>22 A Yes. 15:11</p> <p>23 Q Did he run for re-election to the 15:11</p> <p>24 board of trustees when his term expired in 2001 or</p> <p>25 2002?</p>	<p style="text-align: right;">Page 155</p> <p>1 N. Rogers</p> <p>2 you if there was any reason why he had written or</p> <p>3 he had recommended George Hesse for professional</p> <p>4 appointment to sergeant, but did not recommend him</p> <p>5 for appointment as acting chief?</p> <p>6 MR. NOVIKOFF: Objection, form. 15:12</p> <p>7 A No. 15:13</p> <p>8 Q To your knowledge, did anything 15:13</p> <p>9 happen between George Hesse and Ed Paradiso</p> <p>10 between March 30th, 2001, and the end of 2005,</p> <p>11 that Ed Paradiso indicated to you had affected his</p> <p>12 opinion of George Hesse?</p> <p>13 MR. NOVIKOFF: Objection, form. 15:13</p> <p>14 A To my knowledge, no. 15:13</p> <p>15 Q Between March 30th, 2001, and the end 15:13</p> <p>16 of 2005, did Ed Paradiso ever explain to you or</p> <p>17 state to you that any specific incident had</p> <p>18 adversely impacted his impressions of George</p> <p>19 Hesse's suitability for service as a police</p> <p>20 officer?</p> <p>21 MR. NOVIKOFF: Objection, form. 15:14</p> <p>22 A To my knowledge, no. 15:14</p> <p>23 Q If you could please turn to the third 15:14</p> <p>24 page of this document.</p> <p>25 The document is dated March 25, 2001. 15:14</p>
<p style="text-align: right;">Page 154</p> <p>1 N. Rogers</p> <p>2 A Yes, 2002. 15:11</p> <p>3 Q Did you support his candidacy for 15:11</p> <p>4 re-election at that time?</p> <p>5 A Yes. 15:11</p> <p>6 Q The letter is signed by Chief Edward 15:11</p> <p>7 T. Paradiso. The text of the letter reads: "Dear</p> <p>8 Andy: Please find enclosed a letter from</p> <p>9 PO George Hesse requesting consideration for</p> <p>10 provisional appointment to sergeant. I feel that</p> <p>11 Officer Hesse has grown as a police officer and</p> <p>12 has carried on his supervisory duty</p> <p>13 enthusiastically and professionally, and I add my</p> <p>14 recommendation to his request and forward it to</p> <p>15 you for backing and approval."</p> <p>16 Mayor Rogers, do you know what, if 15:12</p> <p>17 any, supervisory duties George Hesse had as of</p> <p>18 March 30th, 2001?</p> <p>19 A Not specifically, no. 15:12</p> <p>20 Q Do you know the general nature -- 15:12</p> <p>21 strike that.</p> <p>22 Do you know whether George Hesse had 15:12</p> <p>23 any supervisory duties as of March 30th, 2001?</p> <p>24 A No. 15:12</p> <p>25 Q Did Edward Paradiso ever explain to 15:12</p>	<p style="text-align: right;">Page 156</p> <p>1 N. Rogers</p> <p>2 It states to Chief Edward T. Paradiso from George</p> <p>3 B. Hesse, police officer. Subject line:</p> <p>4 "Provisional Appointment to Sergeant."</p> <p>5 Mayor Rogers, do you recall if you 15:14</p> <p>6 have seen this page of the document before?</p> <p>7 MR. NOVIKOFF: Objection, asked and 15:14</p> <p>8 answered. That was the first question</p> <p>9 regarding this document.</p> <p>10 But you can answer it again. 15:14</p> <p>11 A I don't recall seeing it. 15:14</p> <p>12 Q The last full paragraph of this 15:15</p> <p>13 letter states: "I understand I did not do well</p> <p>14 enough to pass the last exam, but I believe that</p> <p>15 there is a lot more to being a supervisor than</p> <p>16 taking a test designed by the County police.</p> <p>17 "I will be more prepared the next 15:15</p> <p>18 time I take it so we can make it official, but for</p> <p>19 the time being I would like the provisional</p> <p>20 appointment. According to Civil Service, you can</p> <p>21 stay in a provisional position pending two exams.</p> <p>22 That gives me at least four to five years to pass</p> <p>23 the test."</p> <p>24 To your knowledge, are the statements 15:15</p> <p>25 in this letter concerning Civil Service standards</p>

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<p>1 N. Rogers</p> <p>2 accurate?</p> <p>3 MS. McEACHIN: Objection. 15:15</p> <p>4 MR. NOVIKOFF: Objection, form, calls 15:15</p> <p>5 for a legal conclusion, among other things.</p> <p>6 You can answer, though. 15:15</p> <p>7 A To the extent that I am aware, yes. 15:16</p> <p>8 Q How long did you serve as a 15:16</p> <p>9 commissioner on the New York City Civil Service</p> <p>10 Commission?</p> <p>11 A Seven and a half years. 15:16</p> <p>12 Q Do you know what exam George Hesse is 15:16</p> <p>13 referring to in this paragraph?</p> <p>14 A No. 15:16</p> <p>15 Q Did you ever discuss with George 15:16</p> <p>16 Hesse whether he had passed a required exam in</p> <p>17 connection with his position at the Ocean Beach</p> <p>18 Police Department?</p> <p>19 A Did I discuss with him is your 15:16</p> <p>20 question?</p> <p>21 Q Is that a subject that you ever 15:17</p> <p>22 discussed with him, yes.</p> <p>23 A No. 15:17</p> <p>24 Q To your knowledge, did George 15:17</p> <p>25 Hesse -- strike that.</p>	<p>1 N. Rogers</p> <p>2 objecting?</p> <p>3 MR. CONNOLLY: Objection. 15:18</p> <p>4 MR. NOVIKOFF: I will object. 15:18</p> <p>5 You can answer. 15:18</p> <p>6 A I can answer it up to a certain 15:18</p> <p>7 point. I cannot answer it in the way it's</p> <p>8 phrased. I'm sorry.</p> <p>9 MR. NOVIKOFF: You don't have to 15:18</p> <p>10 apologize to me.</p> <p>11 Q Answer it up until the point that you 15:18</p> <p>12 can answer it.</p> <p>13 A When you say to my knowledge, did he 15:18</p> <p>14 fail to pass a Civil Service examination, if you</p> <p>15 put a period after that, the answer would be yes.</p> <p>16 Q Okay. What Civil Service examination 15:18</p> <p>17 did George Hesse fail to pass?</p> <p>18 A To my knowledge, it was the 15:18</p> <p>19 sergeant's exam.</p> <p>20 Q To your knowledge, did George Hesse 15:18</p> <p>21 ever pass the Civil Service sergeant's exam that</p> <p>22 you are referring to?</p> <p>23 A I don't know. 15:18</p> <p>24 Q To your knowledge, was George Hesse 15:18</p> <p>25 required to pass the Civil Service sergeant's exam</p>
Page 158	Page 160
<p>1 N. Rogers</p> <p>2 To your knowledge, did George Hesse 15:17</p> <p>3 fail to pass an exam that was required in</p> <p>4 connection with his position at the Ocean Beach</p> <p>5 Police Department, that is a Civil Service exam?</p> <p>6 MS. McEACHIN: Objection. 15:17</p> <p>7 MR. CONNOLLY: Objection. 15:17</p> <p>8 MR. NOVIKOFF: Okay, objection. 15:17</p> <p>9 A That's two questions. Which one do 15:17</p> <p>10 you want me to answer first?</p> <p>11 MR. GRAFF: Could you just read back 15:17</p> <p>12 my last question.</p> <p>13 (Record read.) 15:17</p> <p>14 BY MR. GRAFF: 15:17</p> <p>15 Q I can see why it might have been 15:17</p> <p>16 unclear.</p> <p>17 A Break it into two questions and I 15:17</p> <p>18 will answer.</p> <p>19 Q To your knowledge, did George Hesse 15:18</p> <p>20 fail to pass a Civil Service exam that was</p> <p>21 required in his position at the Ocean Beach Police</p> <p>22 Department?</p> <p>23 MS. McEACHIN: Still note my 15:18</p> <p>24 objection.</p> <p>25 MR. NOVIKOFF: Mr. Connolly, are you 15:18</p>	<p>1 N. Rogers</p> <p>2 to serve in the position of sergeant at the Ocean</p> <p>3 Beach Police Department?</p> <p>4 MS. McEACHIN: Objection. 15:19</p> <p>5 MR. NOVIKOFF: Kevin? 15:19</p> <p>6 MR. CONNOLLY: Objection. 15:19</p> <p>7 MR. NOVIKOFF: Objection. 15:19</p> <p>8 A I don't know. 15:19</p> <p>9 Q Is that -- strike that. 15:19</p> <p>10 Do you believe that George Hesse's 15:19</p> <p>11 failure to pass the Civil Service sergeant exam</p> <p>12 factored in, in any way, to your determination</p> <p>13 that George Hesse was suitable to serve as acting</p> <p>14 police chief?</p> <p>15 MR. NOVIKOFF: Wait a minute, hold 15:20</p> <p>16 on. Can you just read that question back.</p> <p>17 (Record read.) 15:20</p> <p>18 MR. NOVIKOFF: Okay. Objection. 15:20</p> <p>19 You can answer. 15:20</p> <p>20 A I don't know. 15:20</p> <p>21 Q Is that something that you considered 15:20</p> <p>22 at the time that you decided that George Hesse</p> <p>23 should serve as acting police chief?</p> <p>24 MR. NOVIKOFF: Is what? 15:20</p> <p>25 Q His failure to pass the Civil Service 15:20</p>

<p style="text-align: right;">Page 161</p> <p>1 N. Rogers</p> <p>2 sergeant exam.</p> <p>3 A I don't believe so. 15:20</p> <p>4 Q During the period that you served as 15:21</p> <p>5 a Commissioner on the New York City Civil Service</p> <p>6 Commission, were you familiar with the New York</p> <p>7 City, applicable New York City Civil Service</p> <p>8 requirements for police officers?</p> <p>9 MR. NOVIKOFF: Objection. I have no 15:21</p> <p>10 idea what you mean by the word "familiar."</p> <p>11 But you can answer. 15:21</p> <p>12 Q Did you have knowledge of those 15:21</p> <p>13 requirements at that time?</p> <p>14 A No, because that was not within the 15:21</p> <p>15 authority or purview of the activities of the</p> <p>16 New York Civil Service Commission.</p> <p>17 Q And do you know what entity or agency 15:21</p> <p>18 had purview over --</p> <p>19 A It was within -- 15:22</p> <p>20 MR. NOVIKOFF: Whoa, whoa. 15:22</p> <p>21 Ms. Rogers, please let counsel finish the</p> <p>22 question.</p> <p>23 Were you done with the question? 15:22</p> <p>24 MR. GRAFF: If Ms. -- excuse me, 15:22</p> <p>25 Mayor Rogers wants to finish her</p>	<p style="text-align: right;">Page 163</p> <p>1 N. Rogers</p> <p>2 applicable to employees at Ocean Beach?</p> <p>3 MR. NOVIKOFF: Objection, form. 15:23</p> <p>4 A No. 15:23</p> <p>5 Q Did anyone ever tell you what those 15:23</p> <p>6 requirements were during the period that you</p> <p>7 served as police commissioner?</p> <p>8 MR. NOVIKOFF: Other than perhaps 15:23</p> <p>9 counsel? Because if your question includes</p> <p>10 counsel --</p> <p>11 MR. GRAFF: Other than counsel. 15:23</p> <p>12 MR. NOVIKOFF: Okay. You can answer 15:23</p> <p>13 the question.</p> <p>14 A When Marianne Minerva was hired as 15:23</p> <p>15 administrator, one of her strengths was that she</p> <p>16 was very knowledgeable about Civil Service matters</p> <p>17 as it related to personnel.</p> <p>18 When she came on, I instructed her to 15:24</p> <p>19 do the research as to the appropriate steps that</p> <p>20 should be recommended to the Village to take to</p> <p>21 make us in greater compliance with Civil Service</p> <p>22 requirements as they related to the Village.</p> <p>23 Q What is the basis for your statement 15:24</p> <p>24 that Marianne Minerva, one of her strengths when</p> <p>25 she came on was her knowledge of Civil Service</p>
<p style="text-align: right;">Page 162</p> <p>1 N. Rogers</p> <p>2 statement --</p> <p>3 THE WITNESS: That's all right. 15:22</p> <p>4 MR. NOVIKOFF: I just want to make 15:22</p> <p>5 sure that you are finished so I can preserve</p> <p>6 my objection, so if you are finished, I will</p> <p>7 ask the court reporter to read the question</p> <p>8 back. If you are not finished, then by all</p> <p>9 means, finish your question.</p> <p>10 MR. GRAFF: I will resume that 15:22</p> <p>11 question.</p> <p>12 Q Do you know what entity had 15:22</p> <p>13 jurisdiction or purview over NYPD Civil Service</p> <p>14 requirements during the period that you served as</p> <p>15 a commissioner on the New York City Civil Service</p> <p>16 Commission?</p> <p>17 MR. NOVIKOFF: Objection. 15:22</p> <p>18 You can answer. 15:22</p> <p>19 A To my understanding and belief, it 15:22</p> <p>20 was the New York City Police Department, not the</p> <p>21 Civil Service Commission.</p> <p>22 Q At any time during the period that 15:23</p> <p>23 you served as Mayor and/or police commissioner at</p> <p>24 Ocean Beach, did you conduct any independent</p> <p>25 research concerning the Civil Service requirements</p>	<p style="text-align: right;">Page 164</p> <p>1 N. Rogers</p> <p>2 requirements?</p> <p>3 A That was part of her resume and 15:24</p> <p>4 references.</p> <p>5 Q Do you recall what specifically was 15:24</p> <p>6 stated on her resume that indicated --</p> <p>7 A No. 15:24</p> <p>8 Q Thanks. 15:24</p> <p>9 And when you say that part of her 15:24</p> <p>10 work was to bring Ocean Beach in greater</p> <p>11 compliance with Civil Service requirements, is it</p> <p>12 your understanding -- strike that.</p> <p>13 Is it your understanding that Ocean 15:25</p> <p>14 Beach was not in compliance with Civil Service</p> <p>15 requirements at the time that Marianne Minerva</p> <p>16 came on as Village administrator?</p> <p>17 MS. McEACHIN: Objection. 15:25</p> <p>18 MR. NOVIKOFF: Is it her 15:25</p> <p>19 understanding now or was it her</p> <p>20 understanding when Marianne Minerva came on</p> <p>21 board?</p> <p>22 BY MR. GRAFF: 15:25</p> <p>23 Q Let's break it down. When Marianne 15:25</p> <p>24 Minerva came on board.</p> <p>25 MR. NOVIKOFF: Fine. Objection to 15:25</p>

41 (Pages 161 to 164)

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<p>1 N. Rogers</p> <p>2 form.</p> <p>3 But you can answer. 15:25</p> <p>4 A Yes, we were not in full compliance. 15:25</p> <p>5 That was my belief.</p> <p>6 Q And in what ways were you not in full 15:25</p> <p>7 compliance?</p> <p>8 A It was my understanding that every 15:25</p> <p>9 employee of the Village of Ocean Beach, whether it</p> <p>10 be full-time or part-time, seasonal or not, had</p> <p>11 certain requirements to make them consistent with</p> <p>12 the -- with the Civil Service requirements of the</p> <p>13 State.</p> <p>14 Q And do you know which requirements 15:26</p> <p>15 Ocean Beach was not in compliance with at that</p> <p>16 time?</p> <p>17 A Not specifically. 15:26</p> <p>18 Q Do you know whether the Ocean Beach 15:26</p> <p>19 Police Department employees were in compliance</p> <p>20 with Civil Service requirements at that time?</p> <p>21 MR. NOVIKOFF: All of them, some of 15:26</p> <p>22 them?</p> <p>23 Q Whether any -- yes. Any were not in 15:26</p> <p>24 compliance.</p> <p>25 MR. NOVIKOFF: The question is, were 15:26</p>	<p>1 N. Rogers</p> <p>2 point Ocean Beach police officers were all in</p> <p>3 compliance with all applicable Civil Service</p> <p>4 requirements?</p> <p>5 A I don't believe that is my 15:28</p> <p>6 understanding, no.</p> <p>7 Q So, is it your understanding that at 15:28</p> <p>8 any time -- strike that.</p> <p>9 To your knowledge, at any time during 15:28</p> <p>10 your service as Mayor/police commissioner of Ocean</p> <p>11 Beach, was the Ocean Beach Police Department in</p> <p>12 full compliance with applicable Civil Service</p> <p>13 requirements?</p> <p>14 A No. 15:28</p> <p>15 Q Do you know why the Ocean Beach 15:28</p> <p>16 Police Department was not brought into compliance</p> <p>17 with Civil Service requirements when Marianne</p> <p>18 Minerva came on as Village administrator?</p> <p>19 MR. NOVIKOFF: Objection to form. 15:28</p> <p>20 Why don't we take this phone call? 15:28</p> <p>21 THE VIDEOGRAPHER: The time is now 15:28</p> <p>22 3:28 p.m.</p> <p>23 We are now off the record. 15:28</p> <p>24 (Telephone conference as follows:) 15:28</p> <p>25 THE CLERK: Calling case 07 CV 1215, 15:30</p>
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<p>1 N. Rogers</p> <p>2 you aware at that time whether there were</p> <p>3 any police officers that were not in</p> <p>4 compliance with Civil Service; right?</p> <p>5 A I was aware, yes. 15:26</p> <p>6 Q Do you recall how many Ocean Beach 15:26</p> <p>7 police officers were not in compliance with those</p> <p>8 requirements at that time?</p> <p>9 MS. McEACHIN: Objection as to what 15:27</p> <p>10 requirements, because is it duty statements?</p> <p>11 Is it certification? Is it the exam? I</p> <p>12 don't know what requirements you are</p> <p>13 referring to.</p> <p>14 MR. NOVIKOFF: I will join in that 15:27</p> <p>15 objection. Well stated.</p> <p>16 MR. GRAFF: Okay, the objection is 15:27</p> <p>17 noted. I am asking whatever requirements</p> <p>18 she was aware of that had to be complied</p> <p>19 with, how many were not in compliance with</p> <p>20 any aspect of that.</p> <p>21 A The question is how many; is that 15:27</p> <p>22 correct?</p> <p>23 Q Yes. 15:27</p> <p>24 A The answer is no. 15:27</p> <p>25 Q Is it your understanding that at some 15:27</p>	<p>1 N. Rogers</p> <p>2 Carter versus Incorporated Village of Ocean</p> <p>3 Beach.</p> <p>4 Counsel, please state your appearance 15:30</p> <p>5 for the record.</p> <p>6 MR. GRAFF: This is Ari Graff of the 15:30</p> <p>7 law firm Thompson Wigdor & Gilly LLP,</p> <p>8 representing plaintiffs at the deposition of</p> <p>9 Mayor Rogers.</p> <p>10 MR. NOVIKOFF: Representing the 15:30</p> <p>11 Village defendants, former mayor Natalie</p> <p>12 Rogers and Mayor Joseph Loeffler, Kenneth</p> <p>13 Novikoff from the law firm of Rivkin Radler</p> <p>14 LLP.</p> <p>15 Good afternoon, Your Honor. 15:31</p> <p>16 THE COURT: You have a question for a 15:31</p> <p>17 ruling?</p> <p>18 MR. GRAFF: Yes, your Honor. This is 15:31</p> <p>19 Ari Graff, counsel for plaintiffs, speaking.</p> <p>20 I had contacted chambers with respect to</p> <p>21 Mr. Novikoff's instruction to the witness</p> <p>22 not to answer questions on grounds of</p> <p>23 executive session privilege.</p> <p>24 My position is that that is not a 15:31</p> <p>25 valid basis for instructing a witness not to</p>

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<p>1 N. Rogers</p> <p>2 answer a question at a deposition under the</p> <p>3 Federal Rules of Civil Procedure and local</p> <p>4 rules of the Eastern District of New York.</p> <p>5 MR. NOVIKOFF: Your Honor, this is 15:31</p> <p>6 Mr. Novikoff. The --</p> <p>7 THE COURT: Just one moment. Do you 15:31</p> <p>8 have a court reporter there?</p> <p>9 MR. NOVIKOFF: Yes, we do. 15:31</p> <p>10 THE COURT: You do. Good. 15:31</p> <p>11 I have a very, very bad connection, 15:31</p> <p>12 just so you are aware of it. So, if you</p> <p>13 would speak slowly and as clearly as you</p> <p>14 can.</p> <p>15 Mr. Graff, as I understand it, the 15:31</p> <p>16 basis for the objections are that the</p> <p>17 question is frivolous?</p> <p>18 MR. GRAFF: No, sir. That the 15:32</p> <p>19 question is -- that the question does not</p> <p>20 require a response on grounds of executive</p> <p>21 session privilege.</p> <p>22 THE COURT: This is a very bad 15:32</p> <p>23 connection. How did you place this call?</p> <p>24 MR. NOVIKOFF: This is through our 15:32</p> <p>25 phone in our conference room, Your Honor, on</p>	<p>1 N. Rogers</p> <p>2 session would render the happenings at that</p> <p>3 session subject to attorney-client</p> <p>4 privilege?</p> <p>5 MR. NOVIKOFF: No, no. Judge Boyle 15:37</p> <p>6 was clear, and his transcript will bear the</p> <p>7 basis of his ruling. I'm not going to try</p> <p>8 to characterize what he said.</p> <p>9 But the questions that you posed were 15:37</p> <p>10 not properly objected to on the basis of any</p> <p>11 of the three privileges that I identified,</p> <p>12 whether they were attorney-client privilege,</p> <p>13 legislative immunity or executive session,</p> <p>14 with or without counsel present.</p> <p>15 MR. GRAFF: Thank you. Let's go off 15:38</p> <p>16 the record, please.</p> <p>17 (Recess taken.) 15:38</p> <p>18 THE VIDEOGRAPHER: This is the start 15:57</p> <p>19 of tape number four. The time is now</p> <p>20 3:57 p.m.</p> <p>21 We are now back on the record. 15:57</p> <p>22 BY MR. GRAFF: 15:57</p> <p>23 Q Mayor Rogers, to your knowledge, is 15:57</p> <p>24 an individual who maintains an official address at</p> <p>25 a post office box at the Ocean Beach Post Office</p>
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<p>1 N. Rogers</p> <p>2 speaker.</p> <p>3 THE COURT: Take it off speaker, 15:32</p> <p>4 okay?</p> <p>5 MR. NOVIKOFF: Sure. 15:32</p> <p>6 Your Honor, though, how -- the court 15:32</p> <p>7 reporter just looked at me, not knowing how</p> <p>8 she would be able to take down your</p> <p>9 instructions.</p> <p>10 Okay. The Court is recording 15:32</p> <p>11 everything.</p> <p>12 (Telephone conference continued off 15:32</p> <p>13 the record.)</p> <p>14 MR. NOVIKOFF: Let's go on the 15:36</p> <p>15 record.</p> <p>16 I will represent that Judge Boyle 15:36</p> <p>17 ordered Ms. Rogers to answer all questions</p> <p>18 concerning any communications that were</p> <p>19 posed through questions of Mr. Graff</p> <p>20 concerning comments made between her and any</p> <p>21 trustee during executive session, that the</p> <p>22 privileges that I have asserted do not</p> <p>23 apply.</p> <p>24 MR. GRAFF: Did Judge Boyle indicate 15:37</p> <p>25 that the presence of counsel at an executive</p>	<p>1 N. Rogers</p> <p>2 eligible to vote in elections at Ocean Beach?</p> <p>3 MR. NOVIKOFF: Objection. 15:57</p> <p>4 A I don't know. I don't remember. 15:57</p> <p>5 Q Is that something -- when you say you 15:58</p> <p>6 don't remember, is that something that you believe</p> <p>7 you knew at one time and cannot recall as you sit</p> <p>8 here today?</p> <p>9 A Yes. 15:58</p> <p>10 Q Do you know where the location 15:58</p> <p>11 315 Bay Walk in Ocean Beach is?</p> <p>12 A Not offhand, no. 15:58</p> <p>13 Q Do you know the street address of the 15:58</p> <p>14 Ocean Beach police barracks?</p> <p>15 A The street address, no. 15:58</p> <p>16 Q Have you ever heard of something 15:58</p> <p>17 called the Ocean Beach Police Department Applicant</p> <p>18 Investigation Section?</p> <p>19 A No. 15:58</p> <p>20 Q To your knowledge, has George Hesse 15:58</p> <p>21 ever had a position on the Ocean Beach Police</p> <p>22 Department Applicant Investigation Section?</p> <p>23 MR. NOVIKOFF: Objection to form. 15:59</p> <p>24 A No idea. 15:59</p> <p>25 Q Mayor Rogers, do you recall that 15:59</p>

<p style="text-align: right;">Page 173</p> <p>1 N. Rogers</p> <p>2 earlier today I asked you whether you had ever</p> <p>3 been named as a defendant in any lawsuit?</p> <p>4 A Yes. 15:59</p> <p>5 Q Do you recall whether you have been 15:59</p> <p>6 named as a defendant in any lawsuit?</p> <p>7 MR. NOVIKOFF: Objection. 15:59</p> <p>8 Q Other than the lawsuit we are here 15:59</p> <p>9 for today.</p> <p>10 MR. NOVIKOFF: Asked and answered. 15:59</p> <p>11 You can answer again. 15:59</p> <p>12 A To my knowledge, no. 15:59</p> <p>13 MR. GRAFF: I will ask the court 15:59</p> <p>14 reporter to please mark as exhibit Rogers 3</p> <p>15 a multi-page document beginning on Bates</p> <p>16 Number 9893, continuing through Bates number</p> <p>17 9902.</p> <p>18 (Rogers Exhibit 3 marked for 16:00</p> <p>19 identification.)</p> <p>20 BY MR. GRAFF: 16:00</p> <p>21 Q Mayor Rogers, when you have had a 16:00</p> <p>22 chance to look at the first page of this document,</p> <p>23 could you tell me, please, if you recognize this</p> <p>24 first page.</p> <p>25 A Oh, Peterson. Yes. 16:00</p>	<p style="text-align: right;">Page 175</p> <p>1 N. Rogers</p> <p>2 you have been named as a defendant in a lawsuit?</p> <p>3 A Yes. 16:01</p> <p>4 MR. NOVIKOFF: Looking at the first 16:01</p> <p>5 page.</p> <p>6 A Yes. It does. 16:01</p> <p>7 Q Do you now have an independent 16:01</p> <p>8 recollection, independent of this document, as to</p> <p>9 whether you have been named as a defendant?</p> <p>10 A Yes. 16:01</p> <p>11 Q Do you recall whether you gave 16:01</p> <p>12 testimony under oath in connection with this</p> <p>13 lawsuit? And by "this lawsuit," I am referring to</p> <p>14 the lawsuit referenced on this first page.</p> <p>15 A I don't recall testifying on this. 16:02</p> <p>16 Q To your knowledge, is this lawsuit 16:02</p> <p>17 still active?</p> <p>18 A No, no. 16:02</p> <p>19 Q Do you recall what allegations were 16:02</p> <p>20 made against you in this lawsuit?</p> <p>21 MR. NOVIKOFF: Objection. 16:02</p> <p>22 You can answer. 16:02</p> <p>23 A Do I recall? No, I do not recall. 16:02</p> <p>24 Q To your knowledge, did this lawsuit 16:02</p> <p>25 include allegations made against you?</p>
<p style="text-align: right;">Page 174</p> <p>1 N. Rogers</p> <p>2 Q Could you identify what this first 16:00</p> <p>3 page of the document is.</p> <p>4 A It's a complaint apparently from 16:00</p> <p>5 Bridget M. Peterson, who was a police officer with</p> <p>6 the Village, against the department, against the</p> <p>7 chief Ed Paradiso and against me.</p> <p>8 Q Have you seen this document before? 16:01</p> <p>9 MR. NOVIKOFF: Do you want her to 16:01</p> <p>10 read the whole document in order to answer</p> <p>11 that?</p> <p>12 Q With reference to the first page, 16:01</p> <p>13 let's say.</p> <p>14 A Have I seen this? 16:01</p> <p>15 MR. NOVIKOFF: Well, actually, if 16:01</p> <p>16 you're going to ask if she has seen the</p> <p>17 whole document --</p> <p>18 Q Have you seen the first page of this 16:01</p> <p>19 document before?</p> <p>20 A I haven't seen it, but -- 16:01</p> <p>21 MR. NOVIKOFF: That was the question. 16:01</p> <p>22 THE WITNESS: All right then. 16:01</p> <p>23 BY MR. GRAFF: 16:01</p> <p>24 Q Having looked at this document, does 16:01</p> <p>25 it refresh your recollection at all as to whether</p>	<p style="text-align: right;">Page 176</p> <p>1 N. Rogers</p> <p>2 A To my knowledge, I assume they did, 16:02</p> <p>3 but I don't know what they are.</p> <p>4 Q To your knowledge -- I have asked a 16:02</p> <p>5 similar question already. To your knowledge, has</p> <p>6 this lawsuit been resolved?</p> <p>7 MR. NOVIKOFF: Objection. 16:03</p> <p>8 A Yes. 16:03</p> <p>9 Q Do you recall what the resolution of 16:03</p> <p>10 this lawsuit involved?</p> <p>11 A I was told that the insurance company 16:03</p> <p>12 settled this for -- at some level. I don't know</p> <p>13 what.</p> <p>14 Q Do you know whether there was any 16:03</p> <p>15 finding as to whether any of the defendants in</p> <p>16 this lawsuit were liable for wrongful conduct?</p> <p>17 A No. I did not know. 16:03</p> <p>18 Q Do you know whether the resolution of 16:03</p> <p>19 this lawsuit involved any admission that any of</p> <p>20 the defendants in this lawsuit were liable for</p> <p>21 wrongful conduct?</p> <p>22 A I do not know. 16:03</p> <p>23 Q When you say the insurance carrier 16:03</p> <p>24 settled the lawsuit, what insurance carrier are</p> <p>25 you referring to?</p>

<p style="text-align: right;">Page 177</p> <p>1 N. Rogers</p> <p>2 A I don't know specifically. That was 16:03</p> <p>3 what -- it was my understanding that an insurance</p> <p>4 company settled. What insurance company, I don't</p> <p>5 know.</p> <p>6 Q Other than any settlement funds that 16:04</p> <p>7 the insurance company might have provided, to your</p> <p>8 knowledge, did the Village of Ocean Beach</p> <p>9 contribute any funds towards the settlement of</p> <p>10 that lawsuit?</p> <p>11 A There may have been a deductible. 16:04</p> <p>12 Q Other than a deductible, to your 16:04</p> <p>13 knowledge, did the Village of Ocean Beach</p> <p>14 contribute any funds to the settlement of that</p> <p>15 lawsuit?</p> <p>16 A To my knowledge, no. 16:04</p> <p>17 Q Mayor Rogers, do you know who a 16:05</p> <p>18 person, an individual named Alan Loeffler is?</p> <p>19 A Say it again. 16:05</p> <p>20 Q Alan Loeffler? 16:05</p> <p>21 A I think that's Joe Loeffler's 16:05</p> <p>22 brother.</p> <p>23 Q Do you know Alan Loeffler personally? 16:05</p> <p>24 A If it's the person I believe it to 16:05</p> <p>25 be, I have met him a few times.</p>	<p style="text-align: right;">Page 179</p> <p>1 N. Rogers</p> <p>2 A Not directly, no. 16:07</p> <p>3 Q Did you have any indirect 16:07</p> <p>4 responsibilities, supervisory responsibilities,</p> <p>5 with respect to the Ocean Beach Recreation</p> <p>6 Department?</p> <p>7 MR. NOVIKOFF: Objection. 16:07</p> <p>8 You can answer. 16:07</p> <p>9 A If I did, I didn't exercise them. 16:07</p> <p>10 Q Is it your testimony that you don't 16:07</p> <p>11 know if you did?</p> <p>12 MR. NOVIKOFF: Objection, her 16:07</p> <p>13 testimony is her testimony.</p> <p>14 You can answer. 16:07</p> <p>15 A I don't know if I did, yes, that's 16:07</p> <p>16 correct. I don't know if I did.</p> <p>17 MR. GRAFF: Could we go off the 16:08</p> <p>18 record very briefly?</p> <p>19 MR. NOVIKOFF: Sure. 16:08</p> <p>20 THE VIDEOGRAPHER: The time is now 16:08</p> <p>21 4:07 p.m.</p> <p>22 We are now off the record. 16:08</p> <p>23 (Discussion held off the record.) 16:08</p> <p>24 THE VIDEOGRAPHER: The time is now 16:11</p> <p>25 4:11 p.m.</p>
<p style="text-align: right;">Page 178</p> <p>1 N. Rogers</p> <p>2 Q Is the person you are referring to or 16:05</p> <p>3 was the person you are referring to formerly a</p> <p>4 police officer at Ocean Beach?</p> <p>5 A I don't know if he was in Ocean 16:05</p> <p>6 Beach. I know he was a police officer.</p> <p>7 Q To your knowledge, have any relatives 16:06</p> <p>8 of Mayor Loeffler been employed by Ocean Beach</p> <p>9 during the period when you served as Mayor and/or</p> <p>10 police commissioner?</p> <p>11 A Yes. 16:06</p> <p>12 Q Could you please list as many such 16:06</p> <p>13 relatives as you can recall.</p> <p>14 A His mother was a clerk in the court. 16:06</p> <p>15 Q What was her name, please? 16:06</p> <p>16 A Winnie Loeffler. I guess it's 16:06</p> <p>17 Winifred. I don't know.</p> <p>18 And two daughters were in the 16:06</p> <p>19 recreation department. One is there now. Jill is</p> <p>20 there now, and she was there when I was Mayor.</p> <p>21 And the other daughter is -- I 16:06</p> <p>22 don't -- I don't -- I don't recall her first name.</p> <p>23 Q As Mayor of Ocean Beach, did you have 16:07</p> <p>24 any supervisory responsibilities with respect to</p> <p>25 the Ocean Beach Recreation Department?</p>	<p style="text-align: right;">Page 180</p> <p>1 N. Rogers</p> <p>2 We are now back on the record. 16:11</p> <p>3 MR. GRAFF: Could the court reporter 16:11</p> <p>4 please read back my last question to Mayor</p> <p>5 Rogers and her last response.</p> <p>6 (Record read.) 16:11</p> <p>7 BY MR. GRAFF: 16:11</p> <p>8 Q Mayor Rogers, if you wanted to 16:11</p> <p>9 ascertain whether or not you had such supervisory</p> <p>10 responsibilities with respect to the recreation</p> <p>11 department, where could you obtain that</p> <p>12 information?</p> <p>13 A NYCOM, which is the New York Council 16:12</p> <p>14 of Mayors in Albany, has a lot of manuals on</p> <p>15 village law, and I would look up and see just what</p> <p>16 is provided for in all phases of village law as to</p> <p>17 what the duties and responsibilities of the Mayor</p> <p>18 are.</p> <p>19 Q During the time that you served as 16:12</p> <p>20 Mayor and/or police commissioner, did you have</p> <p>21 copies of the NYCOM documents that you are</p> <p>22 referring to?</p> <p>23 MR. NOVIKOFF: Objection. 16:12</p> <p>24 A I had some of them, yes. 16:12</p> <p>25 Q And were those maintained in your 16:12</p>

<p style="text-align: right;">Page 181</p> <p>1 N. Rogers</p> <p>2 home?</p> <p>3 A Some were there, yes. Not all. 16:12</p> <p>4 Q Which NYCOM documents of that nature 16:12</p> <p>5 did you have?</p> <p>6 A There was a handbook for Village 16:13</p> <p>7 officials, which gave the duties and</p> <p>8 responsibilities of trustees and Mayor. There was</p> <p>9 a lot of election material.</p> <p>10 THE REPORTER: There was a lot of? 16:13</p> <p>11 A A lot of election material. 16:13</p> <p>12 From time to time special pamphlets 16:13</p> <p>13 were printed and I had some of them on specific</p> <p>14 issues.</p> <p>15 Q Were there any such NYCOM documents 16:13</p> <p>16 that addressed the duties and responsibilities of</p> <p>17 any employee at Ocean Beach with respect to the</p> <p>18 Ocean Beach Police Department?</p> <p>19 MR. NOVIKOFF: Objection. 16:14</p> <p>20 A Not that I recall. 16:14</p> <p>21 Q If you had a question that could not 16:14</p> <p>22 be answered by consulting the NYCOM documents that</p> <p>23 you had, is there a way, or how would you have</p> <p>24 sought to obtain further NYCOM documents that</p> <p>25 might have resolved your question?</p>	<p style="text-align: right;">Page 183</p> <p>1 N. Rogers</p> <p>2 the villages were concerned.</p> <p>3 Civil Service, to my knowledge, had 16:16</p> <p>4 to do with the requirements for personnel.</p> <p>5 Q And during the time that you served 16:16</p> <p>6 as Mayor and/or police commissioner, did you</p> <p>7 understand that the Civil Service requirements</p> <p>8 were requirements of law?</p> <p>9 MS. McEACHIN: Objection. 16:16</p> <p>10 MR. NOVIKOFF: Objection. 16:16</p> <p>11 MR. CONNOLLY: Objection. 16:16</p> <p>12 A Not specifically, no. 16:16</p> <p>13 Q Do you know what entity or individual 16:17</p> <p>14 is responsible for promulgating or establishing</p> <p>15 the Civil Service requirements with respect to</p> <p>16 employees at Ocean Beach?</p> <p>17 MR. NOVIKOFF: Objection. 16:17</p> <p>18 A No, I do not. 16:17</p> <p>19 Q To your knowledge, would any law or 16:17</p> <p>20 regulation prohibit Ocean Beach from paying any</p> <p>21 employees who were not employed in compliance with</p> <p>22 Civil Service requirements?</p> <p>23 MS. McEACHIN: Objection. 16:17</p> <p>24 MR. NOVIKOFF: Objection. 16:17</p> <p>25 A To my knowledge, no. 16:17</p>
<p style="text-align: right;">Page 182</p> <p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Objection. 16:14</p> <p>3 A There were a number of people in 16:14</p> <p>4 Albany at the NYCOM offices, all of whom dealt</p> <p>5 with different areas of village responsibilities</p> <p>6 and activities, and I would call NYCOM and find</p> <p>7 out who was responsible for the particular issue</p> <p>8 or area that I was looking for and have a</p> <p>9 conversation with that individual, if I could.</p> <p>10 Q If you were seeking to resolve a 16:15</p> <p>11 question in the scope of your responsibilities as</p> <p>12 Mayor and/or police commissioner, were there any</p> <p>13 such questions that could have been resolved both</p> <p>14 by the Civil Service Department and by the NYCOM</p> <p>15 officials? Was there any overlaps?</p> <p>16 MR. NOVIKOFF: Objection. 16:15</p> <p>17 MS. McEACHIN: Objection. 16:15</p> <p>18 A It's possible, but I don't know them. 16:15</p> <p>19 Q What did you understand the 16:15</p> <p>20 distinction to be between issues that could be</p> <p>21 resolved by NYCOM versus issues that could be</p> <p>22 resolved by the Civil Service Department?</p> <p>23 MR. NOVIKOFF: Objection. 16:16</p> <p>24 A NYCOM dealt with state law 16:16</p> <p>25 essentially and the interpretation of it as far as</p>	<p style="text-align: right;">Page 184</p> <p>1 N. Rogers</p> <p>2 Q Do you know somebody by the name of 16:18</p> <p>3 Patricia Hoversen?</p> <p>4 A Spell the last name, please. 16:18</p> <p>5 Q Let me actually give you a document. 16:18</p> <p>6 MR. GRAFF: I'm going to ask the 16:18</p> <p>7 court reporter to please mark as Exhibit</p> <p>8 Minerva 4 --</p> <p>9 MR. JEMAL: Rogers. 16:18</p> <p>10 MR. GRAFF: I'm sorry. Rogers 16:18</p> <p>11 Exhibit 4, a one-page document bearing Bates</p> <p>12 Number 6476.</p> <p>13 (Rogers Exhibit 4 marked for 16:18</p> <p>14 identification.)</p> <p>15 BY MR. GRAFF: 16:18</p> <p>16 Q Ms. Rogers, when you have the 16:18</p> <p>17 document in front of you, I would ask if you have</p> <p>18 seen this document before.</p> <p>19 A 1992? Okay. 16:19</p> <p>20 This says "Dear Jack" and it's 16:20</p> <p>21 addressed to Mr. Vernon Smith. I don't quite</p> <p>22 understand that.</p> <p>23 Q Have you seen this document, though? 16:20</p> <p>24 A No. 16:20</p> <p>25 Q At the top left of the document, 16:20</p>

<p style="text-align: right;">Page 185</p> <p>1 N. Rogers</p> <p>2 under the caption "Board of Trustees," the name in</p> <p>3 the middle of that list is Natalie Katz Roger,</p> <p>4 R-O-G-E-R. Does that refer to you?</p> <p>5 A Yes. 16:20</p> <p>6 Q And what position did you hold at 16:20</p> <p>7 Ocean Beach on January 15th, 1992?</p> <p>8 A I had just become a trustee. 16:20</p> <p>9 Q And the document is signed by -- 16:20</p> <p>10 there is the spelling of the name that I had asked</p> <p>11 about before, Patricia H-O-V-E-R-S-E-N.</p> <p>12 MR. NOVIKOFF: I'm sorry, Counsel, 16:21</p> <p>13 the document has no signature on it.</p> <p>14 Q I'm sorry. The typed name in the 16:21</p> <p>15 signature block is Patricia H-O-V-E-R-S-E-N. Do</p> <p>16 you know any individual by that name?</p> <p>17 A No, sir. 16:21</p> <p>18 Q The last paragraph of the document 16:21</p> <p>19 states: "Please be advised that you will not be</p> <p>20 allowed to work or be paid for any work performed</p> <p>21 while you are not approved by Civil Service. You</p> <p>22 cannot be approved by Civil Service until you have</p> <p>23 taken and passed the medical and agility exams."</p> <p>24 My question is, independent from what 16:21</p> <p>25 is stated in this letter, does this letter refresh</p>	<p style="text-align: right;">Page 187</p> <p>1 N. Rogers</p> <p>2 first part of your question presumes something</p> <p>3 which I don't understand.</p> <p>4 Q During your employment as Mayor 16:23</p> <p>5 and/or police commissioner of Ocean Beach, did you</p> <p>6 understand what the consequences of employing</p> <p>7 individuals not in compliance with Civil Service</p> <p>8 requirements were?</p> <p>9 MR. NOVIKOFF: Objection. 16:23</p> <p>10 You can answer. 16:23</p> <p>11 A No. 16:23</p> <p>12 Q Did you understand that there were 16:23</p> <p>13 any consequences with respect to Ocean Beach's</p> <p>14 employment of employees not in compliance with</p> <p>15 Civil Service requirements?</p> <p>16 MR. NOVIKOFF: Objection. 16:23</p> <p>17 MS. McEACHIN: Objection. Which 16:23</p> <p>18 titles are you referring to? Are you</p> <p>19 referring to police officer title or some</p> <p>20 other Civil Service title?</p> <p>21 MR. GRAFF: Any employees. 16:24</p> <p>22 MS. McEACHIN: That is too overbroad. 16:24</p> <p>23 MR. NOVIKOFF: My objection stands. 16:24</p> <p>24 A No, that was not my function. 16:24</p> <p>25 Q Whose function was that? 16:24</p>
<p style="text-align: right;">Page 186</p> <p>1 N. Rogers</p> <p>2 your recollection as to whether any regulation or</p> <p>3 law would have prohibited Ocean Beach from paying</p> <p>4 employees who were employed without complying with</p> <p>5 Civil Service requirements?</p> <p>6 MS. McEACHIN: Objection. 16:22</p> <p>7 MR. NOVIKOFF: Objection, form. I 16:22</p> <p>8 don't believe that she said she didn't</p> <p>9 recall, so therefore I think the question</p> <p>10 about whether this refreshes her</p> <p>11 recollection is improper.</p> <p>12 But you can answer the question. 16:22</p> <p>13 A I do not recall ever seeing this 16:22</p> <p>14 letter, and I did not know the contents of this</p> <p>15 letter until you showed it to me now.</p> <p>16 Q During your employment as police 16:22</p> <p>17 commissioner, if you had wanted to find an answer</p> <p>18 to the question does any law or regulation</p> <p>19 prohibit Ocean Beach from paying employees who are</p> <p>20 not in compliance with Civil Service requirements,</p> <p>21 what entity or individual would you contact to</p> <p>22 obtain information of that nature?</p> <p>23 MR. NOVIKOFF: Objection. 16:22</p> <p>24 A I can't answer that question. It 16:22</p> <p>25 presumes something. It makes a presumption. The</p>	<p style="text-align: right;">Page 188</p> <p>1 N. Rogers</p> <p>2 A That was administrative. 16:24</p> <p>3 Q Who specifically? 16:24</p> <p>4 A The administrator, the 16:24</p> <p>5 clerk/treasurer. Certainly not myself.</p> <p>6 Q As between the administrator and the 16:24</p> <p>7 clerk/treasurer -- well, first of all, is</p> <p>8 clerk/treasurer one position?</p> <p>9 A At one point it was, yes. 16:24</p> <p>10 Q Okay. As between administrator, 16:24</p> <p>11 clerk/treasurer and/or clerk or treasurer, if</p> <p>12 that, who was primarily responsible for</p> <p>13 information of that nature during the period that</p> <p>14 you were employed as Mayor and/or police</p> <p>15 commissioner?</p> <p>16 MR. NOVIKOFF: Objection. 16:25</p> <p>17 A It could have been any of several 16:25</p> <p>18 people. I can't answer you specifically.</p> <p>19 Q Okay. As between Village 16:25</p> <p>20 administrator and clerk/treasurer, which position</p> <p>21 is more senior?</p> <p>22 MR. NOVIKOFF: Objection. 16:25</p> <p>23 A They have different functions. 16:25</p> <p>24 Q At any point during your employment 16:25</p> <p>25 as Mayor and/or police commissioner, did the</p>

<p style="text-align: right;">Page 189</p> <p>1 N. Rogers</p> <p>2 position of clerk/treasurer report to the</p> <p>3 individual who held the position of Village</p> <p>4 administrator?</p> <p>5 A No. They were different departments. 16:25</p> <p>6 They did different work.</p> <p>7 Q Who did the Village administrator 16:26</p> <p>8 report to during your employment as Mayor and/or</p> <p>9 police commissioner?</p> <p>10 A The Mayor and the board. 16:26</p> <p>11 Q Did the Village administrator report 16:26</p> <p>12 to you as -- in your capacity as Mayor during your</p> <p>13 service in that position?</p> <p>14 A For certain functions, yes. 16:26</p> <p>15 Q What function, what functions 16:26</p> <p>16 involving the Village administrator would the</p> <p>17 Village administrator -- strike that. That's --</p> <p>18 What were the functions of the 16:26</p> <p>19 Village administrator with respect to which the</p> <p>20 Village administrator reported to you during your</p> <p>21 employment as Mayor and/or police commissioner?</p> <p>22 MR. NOVIKOFF: Objection. 16:27</p> <p>23 A The general status of activities in 16:27</p> <p>24 the Village of the capital improvements, the</p> <p>25 operation of the various departments, the</p>	<p style="text-align: right;">Page 191</p> <p>1 N. Rogers</p> <p>2 as Village administrator, did she at any point</p> <p>3 report to you on the status of her efforts to</p> <p>4 insure compliance with Civil Service requirements</p> <p>5 by employees of Ocean Beach?</p> <p>6 A Yes, in a general way. 16:29</p> <p>7 Q Do you recall anything that she 16:29</p> <p>8 reported to you on that subject?</p> <p>9 A No. That she was trying to get 16:29</p> <p>10 everyone in the Village classified so that their</p> <p>11 job would be properly classified as a Civil</p> <p>12 Service job.</p> <p>13 Q Did you have -- do recall whether you 16:29</p> <p>14 asked Marianne Minerva any questions about the</p> <p>15 status of her efforts to achieve that objective?</p> <p>16 A I don't recall a specific question or 16:30</p> <p>17 date, just a general question of how was the</p> <p>18 compliance going, how were we doing on this.</p> <p>19 Q And do you recall how she responded 16:30</p> <p>20 on any of those occasions?</p> <p>21 A We were making progress toward 16:30</p> <p>22 getting every Village employee classified directly</p> <p>23 within the Civil Service requirements.</p> <p>24 Q Did you understand that there would 16:30</p> <p>25 be any penalty to Ocean Beach for failing to</p>
<p style="text-align: right;">Page 190</p> <p>1 N. Rogers</p> <p>2 operation of the water department and the sewer</p> <p>3 department, and street cleaning.</p> <p>4 Q Do you recall when, at what point in 16:27</p> <p>5 time Marianne Minerva began serving in the</p> <p>6 capacity of Village administrator?</p> <p>7 A They had been separated, the 16:28</p> <p>8 clerk/treasurer and administrator. At one point</p> <p>9 in time after the administrator that had</p> <p>10 previously been there left, she was given that job</p> <p>11 when the next person who took care of water and</p> <p>12 sewer and capital improvements and street cleaning</p> <p>13 and so on became -- had a different designation.</p> <p>14 I am trying to remember what we gave that extra</p> <p>15 designation.</p> <p>16 Q Maybe I can cut it -- make it a 16:28</p> <p>17 little simpler. At what point in time did</p> <p>18 Marianne Minerva begin serving as Village</p> <p>19 administrator?</p> <p>20 A I can't tell you the date. I don't 16:28</p> <p>21 remember.</p> <p>22 Q Do you remember the year? 16:28</p> <p>23 A It could be '04, '05. I do not 16:29</p> <p>24 remember the year she came on, no.</p> <p>25 Q When Marianne Minerva began serving 16:29</p>	<p style="text-align: right;">Page 192</p> <p>1 N. Rogers</p> <p>2 complete that process?</p> <p>3 MR. NOVIKOFF: Objection. 16:31</p> <p>4 MS. McEACHIN: Objection. 16:31</p> <p>5 A No. 16:31</p> <p>6 Q Do you know whether prior to 16:31</p> <p>7 beginning her service as Village administrator,</p> <p>8 Marianne Minerva had any previous experience with</p> <p>9 respect to Civil Service requirements for</p> <p>10 employees?</p> <p>11 MR. NOVIKOFF: Objection, asked and 16:31</p> <p>12 answered.</p> <p>13 You can answer. 16:31</p> <p>14 A I think I said earlier that as part 16:31</p> <p>15 of her resume and/or references at the time that</p> <p>16 she was screened for the job in Ocean Beach, that</p> <p>17 she had good experience working with Civil Service</p> <p>18 requirements as it pertained to villages, as it</p> <p>19 pertained to villages.</p> <p>20 Q Were you involved in the hiring 16:32</p> <p>21 process of Marianne -- for Marianne Minerva?</p> <p>22 A Yes, I was. 16:32</p> <p>23 Q Based on the information that you 16:32</p> <p>24 reviewed in connection with that hiring process,</p> <p>25 did you conclude that Marianne Minerva had more</p>

<p style="text-align: right;">Page 193</p> <p>1 N. Rogers</p> <p>2 experience than you did with respect to insuring</p> <p>3 compliance with Civil Service requirements for</p> <p>4 employees?</p> <p>5 MR. NOVIKOFF: Objection. 16:32</p> <p>6 MR. GRAFF: Noted. 16:32</p> <p>7 A Yes, I did. 16:32</p> <p>8 Q Do you recall how many years of prior 16:32</p> <p>9 work experience Marianne Minerva had with respect</p> <p>10 to Civil Service issues?</p> <p>11 A No. 16:33</p> <p>12 Q Do you recall whether she had more 16:33</p> <p>13 than seven years of experience with respect to</p> <p>14 those issues?</p> <p>15 A No, I don't know. 16:33</p> <p>16 Q Do you recall whether she had more 16:33</p> <p>17 than five years of experience?</p> <p>18 A I don't know. 16:33</p> <p>19 MR. GRAFF: Ask the court reporter to 16:34</p> <p>20 please mark as Exhibit Minerva 5 a one-page</p> <p>21 document. It's Bates numbered 267, but I</p> <p>22 will note that the Bates number is stamped</p> <p>23 within the text of the document.</p> <p>24 MR. NOVIKOFF: Rogers. 16:34</p> <p>25 MR. GRAFF: I am sorry, that is 16:34</p>	<p style="text-align: right;">Page 195</p> <p>1 N. Rogers</p> <p>2 relate to what is laid out on the document.</p> <p>3 MR. NOVIKOFF: Fine. 16:35</p> <p>4 BY MR. GRAFF: 16:35</p> <p>5 Q And it has next to this title police 16:36</p> <p>6 sergeant, salary biweekly and an effective date</p> <p>7 06/01/05. Do you see the line I am referring to?</p> <p>8 A Yes. 16:36</p> <p>9 Q The bottom right-hand corner of the 16:36</p> <p>10 document is signed. Do you recognize that</p> <p>11 signature?</p> <p>12 A Yes. 16:36</p> <p>13 MR. NOVIKOFF: Objection. 16:36</p> <p>14 Q Whose signature is that? 16:36</p> <p>15 A Marianne Minerva. 16:36</p> <p>16 Q Okay. On June 1st, 2005, what was 16:36</p> <p>17 Edward Paradiso's position title?</p> <p>18 MR. NOVIKOFF: Counsel, she didn't 16:36</p> <p>19 need the document for that.</p> <p>20 But go ahead, you can answer. 16:36</p> <p>21 A I think at that point he was still 16:36</p> <p>22 police chief, but I am not certain of the dates.</p> <p>23 Q And the second line of the document, 16:36</p> <p>24 I will just tell you what it says. Your</p> <p>25 counsel -- if you would like to see it, you can</p>
<p style="text-align: right;">Page 194</p> <p>1 N. Rogers</p> <p>2 correct, Exhibit Rogers 5.</p> <p>3 (Rogers Exhibit 5 marked for 16:34</p> <p>4 identification.)</p> <p>5 BY MR. GRAFF: 16:34</p> <p>6 Q Mayor Rogers, if you could turn your 16:35</p> <p>7 attention to the columns in the center of this</p> <p>8 document.</p> <p>9 A Let me first see what it is. 16:35</p> <p>10 Q Please. Is this a document that you 16:35</p> <p>11 recognize?</p> <p>12 A No, I do not. 16:35</p> <p>13 Q I have some questions about the 16:35</p> <p>14 information that is set out in this document. I</p> <p>15 understand you haven't seen it specifically, but</p> <p>16 maybe you would still be able to answer the issues</p> <p>17 I have here.</p> <p>18 The first line of the document 16:35</p> <p>19 reading across says Ed Paradiso, Social Security</p> <p>20 number, and the title police sergeant.</p> <p>21 MR. GRAFF: Mr. Novikoff, can you -- 16:35</p> <p>22 MR. NOVIKOFF: Counsel, is there a 16:35</p> <p>23 question? The document says what it says.</p> <p>24 MR. GRAFF: I understand, but if she 16:35</p> <p>25 could follow with me, my question will</p>	<p style="text-align: right;">Page 196</p> <p>1 N. Rogers</p> <p>2 ask him for the document.</p> <p>3 George Hesse, Social Security number, 16:37</p> <p>4 title police officer, a salary number, and again</p> <p>5 an effective date 06/01/05.</p> <p>6 On June 1st, 2005, what was George 16:37</p> <p>7 Hesse's position in the Ocean Beach Police</p> <p>8 Department?</p> <p>9 A I don't remember the date that he 16:37</p> <p>10 assumed the role of acting police chief, so I</p> <p>11 can't answer that.</p> <p>12 Q Immediately prior to assuming the 16:37</p> <p>13 role or title of acting police chief, what title</p> <p>14 did George Hesse have?</p> <p>15 MR. NOVIKOFF: Objection. 16:37</p> <p>16 A He had the title of sergeant. 16:37</p> <p>17 Q During -- strike that. 16:37</p> <p>18 Over the course of your employment in 16:38</p> <p>19 any position with any government, have you ever</p> <p>20 seen documents of this form before?</p> <p>21 MR. NOVIKOFF: Objection. 16:38</p> <p>22 A No. 16:38</p> <p>23 Q Okay. We can put that document 16:38</p> <p>24 aside.</p> <p>25 Mayor Rogers, did you do anything to 16:38</p>

<p style="text-align: right;">Page 197</p> <p>1 N. Rogers</p> <p>2 prepare for this deposition?</p> <p>3 A No. Well, I met, I met with my 16:39</p> <p>4 attorney and discussed something with him, yes.</p> <p>5 Q Okay. I just want to know -- I know 16:39</p> <p>6 that you understand the rules. I want to be very</p> <p>7 clear, none of my questions are directed at</p> <p>8 anything that was communicated between you and</p> <p>9 your attorney.</p> <p>10 A Okay. 16:39</p> <p>11 Q Did you at any point review any 16:39</p> <p>12 documents to refresh your recollection in -- of</p> <p>13 anything in anticipation of this deposition?</p> <p>14 MR. NOVIKOFF: Why don't we break it 16:39</p> <p>15 down so it's clear? Why don't we break it</p> <p>16 down before she met with counsel, after she</p> <p>17 met with counsel, and then leave the money</p> <p>18 question as the third one, and we will see</p> <p>19 if I object and instruct her not to answer.</p> <p>20 Do you understand what I am asking?</p> <p>21 MR. GRAFF: Well, if the answer is no 16:39</p> <p>22 to this question, I won't need to ask three</p> <p>23 questions.</p> <p>24 MR. NOVIKOFF: No, no, because this 16:39</p> <p>25 could encompass what she may or may not have</p>	<p style="text-align: right;">Page 199</p> <p>1 N. Rogers</p> <p>2 A No. 16:40</p> <p>3 Q Did you review any documents in the 16:40</p> <p>4 presence of counsel to refresh your recollection</p> <p>5 of anything in anticipation of this deposition?</p> <p>6 MR. NOVIKOFF: Okay. Don't answer 16:41</p> <p>7 that yet.</p> <p>8 In light of the fact that Ms. Rogers 16:41</p> <p>9 is going to have to come back a second time,</p> <p>10 if I instruct her not to answer this</p> <p>11 question and I am wrong on December 2nd,</p> <p>12 that mean Ms. Rogers may have to come back a</p> <p>13 third time.</p> <p>14 So without waiving my objections on 16:41</p> <p>15 the grounds of attorney-client privilege,</p> <p>16 preserving it, I will allow Ms. Rogers to</p> <p>17 answer this question. Is that acceptable to</p> <p>18 you?</p> <p>19 MR. GRAFF: You have noted that 16:41</p> <p>20 position in the record.</p> <p>21 MR. NOVIKOFF: I don't believe your 16:41</p> <p>22 question is appropriate. I think your</p> <p>23 question violates the attorney-client</p> <p>24 privilege.</p> <p>25 If I allow Ms. Rogers to answer this 16:41</p>
<p style="text-align: right;">Page 198</p> <p>1 N. Rogers</p> <p>2 looked at while she was with me. So if she</p> <p>3 did it outside of counsel, she should answer</p> <p>4 yes or no, either before or after she met</p> <p>5 with us, and then if you want to ask that</p> <p>6 last question about what she did while she</p> <p>7 was with me.</p> <p>8 Otherwise, I'm probably going to have 16:40</p> <p>9 to instruct her to, to not answer that</p> <p>10 question because it's very broad.</p> <p>11 MR. GRAFF: Okay. I know we both 16:40</p> <p>12 know there is a dispute --</p> <p>13 MR. NOVIKOFF: Right. 16:40</p> <p>14 MR. GRAFF: -- as to the privilege 16:40</p> <p>15 that pertains here that is pending before</p> <p>16 the Court.</p> <p>17 MR. NOVIKOFF: Absolutely. 16:40</p> <p>18 MR. GRAFF: But I will proceed in the 16:40</p> <p>19 manner which you have requested.</p> <p>20 MR. NOVIKOFF: Okay. Great. 16:40</p> <p>21 BY MR. GRAFF: 16:40</p> <p>22 Q Outside the presence of counsel, did 16:40</p> <p>23 you review any documents to refresh your</p> <p>24 recollection of anything in anticipation of this</p> <p>25 deposition?</p>	<p style="text-align: right;">Page 200</p> <p>1 N. Rogers</p> <p>2 question, I am not waiving, I want to be</p> <p>3 clear for the record, any other claim to</p> <p>4 attorney-client privilege that you may ask</p> <p>5 her, but in order to avoid the chance that</p> <p>6 she has to come back for a third time, I'm</p> <p>7 going to allow Ms. Rogers to answer this</p> <p>8 question.</p> <p>9 MR. GRAFF: Okay. You have noted 16:42</p> <p>10 that for the record. I will proceed like</p> <p>11 that, but I do not agree that --</p> <p>12 MR. NOVIKOFF: I understand. You 16:42</p> <p>13 still take the position that it's an</p> <p>14 appropriate question.</p> <p>15 MR. GRAFF: No. I do not agree that 16:42</p> <p>16 you are preserving the right to later assert</p> <p>17 it by allowing her to answer question on the</p> <p>18 record.</p> <p>19 MR. NOVIKOFF: Right. So I just want 16:42</p> <p>20 to make sure, you are saying if I allow her</p> <p>21 to answer the question, that means if you</p> <p>22 ask another question to her that may impact</p> <p>23 upon attorney-client privilege, you are</p> <p>24 going to use my permission for her to answer</p> <p>25 this question as a waiver of any future</p>

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<p>1 N. Rogers</p> <p>2 question?</p> <p>3 MR. GRAFF: No. I am saying that I 16:42</p> <p>4 am not making any agreement now with respect</p> <p>5 to what's waived or not. You have noticed</p> <p>6 it on the record.</p> <p>7 MR. NOVIKOFF: I'm sorry, Counsel. 16:42</p> <p>8 In the spirit of cooperation, I was trying</p> <p>9 to get this limited stipulation on the</p> <p>10 record so that we can proceed and she can</p> <p>11 answer a question that you want answered.</p> <p>12 And I think that's a reasonable 16:43</p> <p>13 request of mine in order to allow Ms. Rogers</p> <p>14 to answer this question, but if you are not</p> <p>15 going to take the position that my</p> <p>16 permitting her to answer this question won't</p> <p>17 be a waiver of any other assertions of</p> <p>18 attorney-client privilege that may come down</p> <p>19 the pike, I can't allow her to answer the</p> <p>20 question.</p> <p>21 Do you understand what I am saying? 16:43</p> <p>22 MR. GRAFF: Yes. And if we could 16:43</p> <p>23 just mark this off the clock for a minute, I</p> <p>24 want to make sure I understand, because this</p> <p>25 is important.</p>	<p>1 N. Rogers</p> <p>2 I mean, you tell me, Ari. You 16:44</p> <p>3 graduated law school just like all of us in</p> <p>4 this room.</p> <p>5 I am going to try to allow her to 16:44</p> <p>6 answer this question so we can move on with</p> <p>7 this deposition so that it may not require</p> <p>8 you to make a letter motion on this issue</p> <p>9 and she doesn't have to come back for a</p> <p>10 third time.</p> <p>11 MR. GRAFF: Okay. I will tell you 16:44</p> <p>12 what. In the interest of trying to resolve</p> <p>13 this, without having to subject Ms. Rogers,</p> <p>14 Mayor Rogers to the possibility of a third</p> <p>15 day of testimony that could be avoided --</p> <p>16 MR. NOVIKOFF: Right. 16:45</p> <p>17 MR. GRAFF: -- let's discuss this 16:45</p> <p>18 between today and the second time she</p> <p>19 testifies, and I will move on from this</p> <p>20 question now.</p> <p>21 MR. NOVIKOFF: Great. That works for 16:45</p> <p>22 me.</p> <p>23 BY MR. GRAFF: 16:45</p> <p>24 Q Did you have -- did you discuss with 16:45</p> <p>25 anyone other than counsel the fact that you would</p>
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<p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Sure. 16:43</p> <p>3 MR. GRAFF: I do not accept that if 16:43</p> <p>4 you let her answer these questions you can</p> <p>5 later assert an objection to the</p> <p>6 admissibility or -- strike that -- that you</p> <p>7 can later claim that the information that</p> <p>8 she communicates in her responses is somehow</p> <p>9 attorney-client privilege.</p> <p>10 I am not looking to bootstrap this or 16:43</p> <p>11 leverage it to get at other subjects, but my</p> <p>12 position is that once she testifies as to</p> <p>13 this matter, there is no further possibility</p> <p>14 for you to claim that her response to those</p> <p>15 questions is not part of the record or a</p> <p>16 privileged subject.</p> <p>17 MR. NOVIKOFF: Are you sure you want 16:44</p> <p>18 to take that position? Because I think for</p> <p>19 your sake, it's counterproductive. Because</p> <p>20 if you are going to be making a motion to</p> <p>21 Judge Boyle, and he's going to see that I'm</p> <p>22 going to allow this witness to answer that</p> <p>23 question subject to me raising it further on</p> <p>24 at trial, then that is your, that is your</p> <p>25 place.</p>	<p>1 N. Rogers</p> <p>2 be appearing here today for a deposition?</p> <p>3 MR. GRAFF: And I am sorry, we are 16:45</p> <p>4 back on the clock. Thank you.</p> <p>5 A My daughter. 16:45</p> <p>6 Q And what did you discuss with your 16:45</p> <p>7 daughter with respect to your appearance for a</p> <p>8 deposition?</p> <p>9 A Nothing. Just that I was going to be 16:45</p> <p>10 here.</p> <p>11 Q Did you tell her in connection with 16:45</p> <p>12 what case you would be coming here for a</p> <p>13 deposition?</p> <p>14 A Not specifically, no. 16:46</p> <p>15 Q Did she ask? 16:46</p> <p>16 A She knew there were some issues of 16:46</p> <p>17 the Village that were still open.</p> <p>18 Q Did she ask you in connection with 16:46</p> <p>19 what case you would be coming for a deposition?</p> <p>20 A She just knew I was coming for a 16:46</p> <p>21 deposition.</p> <p>22 Q Have you had any other discussions 16:46</p> <p>23 with your daughter concerning this lawsuit?</p> <p>24 A No. 16:46</p> <p>25 Q Do you know whether you have seen the 16:46</p>

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<p>1 N. Rogers</p> <p>2 complaint that was filed in federal court in this</p> <p>3 lawsuit?</p> <p>4 A I don't believe I have. 16:46</p> <p>5 Q Are you familiar, do you have 16:46</p> <p>6 knowledge as to any of the specific allegations</p> <p>7 that have been made by the plaintiffs in this</p> <p>8 lawsuit?</p> <p>9 A No. 16:47</p> <p>10 Q Do you know what claims have been 16:47</p> <p>11 made against you in this lawsuit?</p> <p>12 A No. 16:47</p> <p>13 Q Do you know whether the plaintiffs in 16:47</p> <p>14 this lawsuit have alleged that you, Mayor Rogers,</p> <p>15 engaged in any wrongful conduct against them?</p> <p>16 MR. NOVIKOFF: Objection. 16:47</p> <p>17 A No. 16:47</p> <p>18 Q To your knowledge, have you engaged 16:47</p> <p>19 in any wrongful conduct with respect to the</p> <p>20 plaintiffs in this lawsuit during the period when</p> <p>21 you served as Mayor and/or police commissioner?</p> <p>22 A No. 16:47</p> <p>23 Q Do you know who -- strike that. 16:48</p> <p>24 Was a person by the name Susan Kafuko 16:48</p> <p>25 an employee of Ocean Beach during the period when</p>	<p>1 N. Rogers</p> <p>2 Ms. Rogers or to --</p> <p>3 MR. GRAFF: Any allegations that 16:49</p> <p>4 Mayor Rogers has knowledge of made by</p> <p>5 Shoshana McCullum with respect to the</p> <p>6 employment of Susan Kafuko.</p> <p>7 MR. NOVIKOFF: Are you specifically 16:49</p> <p>8 asking about Ms. Rogers' knowledge about</p> <p>9 what one individual may have alleged --</p> <p>10 MR. GRAFF: Yes. 16:50</p> <p>11 MR. NOVIKOFF: -- about her 16:50</p> <p>12 involvement with another individual?</p> <p>13 MR. GRAFF: Yes. 16:50</p> <p>14 MR. NOVIKOFF: Okay. You can answer. 16:50</p> <p>15 Objection, but you can answer.</p> <p>16 A I have heard that she has made some 16:50</p> <p>17 allegations. I do not know what they are.</p> <p>18 Q To your knowledge, did Ms. McCullum 16:50</p> <p>19 initiate any legal proceeding --</p> <p>20 A Did she what? 16:50</p> <p>21 Q Initiate a legal proceeding in 16:50</p> <p>22 connection with the allegations that she made</p> <p>23 concerning the employment of Susan Kafuko?</p> <p>24 A Did she initiate a legal proceeding 16:50</p> <p>25 against whom?</p>
Page 206	Page 208
<p>1 N. Rogers</p> <p>2 you served as Mayor and/or police commissioner?</p> <p>3 A Yes. 16:48</p> <p>4 Q Did you know Ms. Kafuko in connection 16:48</p> <p>5 with --</p> <p>6 A Kafuko. 16:48</p> <p>7 Q Kafuko. Personally? 16:48</p> <p>8 A Yes. 16:48</p> <p>9 Q Does Miss Kafuko still work at Ocean 16:48</p> <p>10 Beach, to your knowledge?</p> <p>11 A To my knowledge, yes. 16:48</p> <p>12 Q Do you know any person or have you 16:49</p> <p>13 heard of an individual by the name of Shoshana</p> <p>14 McCullum?</p> <p>15 MR. NOVIKOFF: Objection. 16:49</p> <p>16 A Yes. 16:49</p> <p>17 Q To your knowledge, has Shoshana 16:49</p> <p>18 McCullum asserted that you engaged in any wrongful</p> <p>19 conduct with respect to the employment of Susan</p> <p>20 Kafuko during the period that you served as Mayor</p> <p>21 and/or police commissioner?</p> <p>22 A You are asking me what I know about 16:49</p> <p>23 what Shoshana McCullum thinks?</p> <p>24 Q No. What she has alleged. 16:49</p> <p>25 MR. NOVIKOFF: To whom? To 16:49</p>	<p>1 N. Rogers</p> <p>2 Q Against anyone, to the extent that 16:50</p> <p>3 you know about.</p> <p>4 A To my knowledge, no. I know nothing 16:50</p> <p>5 about it.</p> <p>6 Q To your knowledge, did you engage in 16:51</p> <p>7 any wrongful conduct with respect to the</p> <p>8 employment of Susan Kafuko?</p> <p>9 A No. 16:51</p> <p>10 MR. NOVIKOFF: Counsel, I'm just 16:51</p> <p>11 going to ask, do you have a good faith basis</p> <p>12 to ask that question? Is there a complaint</p> <p>13 that's been filed against Ms. Rogers or some</p> <p>14 type of other filing?</p> <p>15 I'm just asking if there is a good 16:51</p> <p>16 faith basis to ask that question.</p> <p>17 MR. GRAFF: There -- 16:51</p> <p>18 MR. NOVIKOFF: I mean, I'm just 16:51</p> <p>19 asking you.</p> <p>20 MR. GRAFF: I have a good faith 16:51</p> <p>21 basis. I didn't pull these names out of a</p> <p>22 hat. I believe that there may have been.</p> <p>23 That's why I am asking.</p> <p>24 MR. NOVIKOFF: Okay. Go ahead. 16:51</p> <p>25 BY MR. GRAFF: 16:51</p>

<p style="text-align: right;">Page 209</p> <p>1 N. Rogers</p> <p>2 Q Do you know whether Ocean Beach's 16:51</p> <p>3 insurance carrier has made any payment either to</p> <p>4 Shoshana McCullum or to Susan Kafuko?</p> <p>5 A Do I know? The answer is no, I do 16:52</p> <p>6 not know.</p> <p>7 Q Do you know whether the Village of 16:52</p> <p>8 Ocean Beach has made any settlement agreement with</p> <p>9 either of those two individuals?</p> <p>10 A I do not know. 16:52</p> <p>11 Q Mayor Rogers, do you know of an 16:52</p> <p>12 individual by the name of Christopher Schalik?</p> <p>13 A Please spell the last name. 16:53</p> <p>14 Q I believe it's spelled S-C-H-A-L-I-K. 16:53</p> <p>15 A I don't believe I do. 16:53</p> <p>16 Q Do you know an individual by the name 16:53</p> <p>17 John Tesoro? T-E-S-O-R-O.</p> <p>18 A No. 16:53</p> <p>19 Q Do you know of an individual by the 16:53</p> <p>20 name of Brian VanKoot?</p> <p>21 A No. 16:53</p> <p>22 Q Do you know -- let me start that 16:53</p> <p>23 again.</p> <p>24 During your employment as police 16:53</p> <p>25 commissioner of Ocean Beach, was there any policy</p>	<p style="text-align: right;">Page 211</p> <p>1 N. Rogers</p> <p>2 A I don't know. 16:55</p> <p>3 Q Do you know whether they were 16:55</p> <p>4 permitted to drink in local bars when they were on</p> <p>5 duty?</p> <p>6 MR. NOVIKOFF: Objection. 16:55</p> <p>7 A Are you asking this as what's 16:55</p> <p>8 appropriate or whether there is a regulation on</p> <p>9 this?</p> <p>10 Q Whether there is any kind of rule at 16:55</p> <p>11 Ocean Beach that they were expected to follow.</p> <p>12 I'm not only talking about a formal regulation,</p> <p>13 also a policy or a directive that you have</p> <p>14 knowledge of that would have prohibited Ocean</p> <p>15 Beach police officers from drinking at bars in</p> <p>16 Ocean Beach while they were on duty.</p> <p>17 MR. NOVIKOFF: Note my objection. 16:55</p> <p>18 A It's totally inappropriate, but I 16:56</p> <p>19 don't know if there is a regulation that says so.</p> <p>20 I do not know that.</p> <p>21 Q Do you have any knowledge of Ocean 16:56</p> <p>22 Beach police officers drinking in bars in Ocean</p> <p>23 Beach while they were on duty at any time during</p> <p>24 your employment as Mayor and/or police</p> <p>25 commissioner of Ocean Beach?</p>
<p style="text-align: right;">Page 210</p> <p>1 N. Rogers</p> <p>2 with respect to Ocean Beach police officers</p> <p>3 drinking alcoholic beverages at bars within Ocean</p> <p>4 Beach?</p> <p>5 MR. NOVIKOFF: Objection to form. 16:54</p> <p>6 You can answer the question. 16:54</p> <p>7 A Was there any policy? 16:54</p> <p>8 Q Yes. Were there any rules of Ocean 16:54</p> <p>9 Beach that pertained to that subject?</p> <p>10 MR. NOVIKOFF: Objection. 16:54</p> <p>11 A I don't know about any rules. 16:54</p> <p>12 Q Okay. Let me be more specific. 16:54</p> <p>13 A Yes. 16:54</p> <p>14 Q During the period of your employment 16:54</p> <p>15 as police commissioner, were Ocean Beach police</p> <p>16 officers permitted to drink in local bars when</p> <p>17 they were off duty at any point during your</p> <p>18 employment as police commissioner?</p> <p>19 MR. NOVIKOFF: Objection. 16:54</p> <p>20 You can answer. 16:54</p> <p>21 A I don't know. 16:54</p> <p>22 Q Do you know whether they were 16:55</p> <p>23 permitted to drink in local bars while they were</p> <p>24 off duty but wearing their uniforms?</p> <p>25 MR. NOVIKOFF: Objection. 16:55</p>	<p style="text-align: right;">Page 212</p> <p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: Objection. 16:56</p> <p>3 A No, I do not. 16:56</p> <p>4 Q If you had been informed -- 16:56</p> <p>5 MR. GRAFF: It's a hypothetical 16:56</p> <p>6 question, Counsel. I understand from your</p> <p>7 expression that you are going to object, but</p> <p>8 I would like to pose it to the witness.</p> <p>9 MR. NOVIKOFF: My expression is 16:56</p> <p>10 nothing. You may proceed with your</p> <p>11 question.</p> <p>12 MR. GRAFF: Thank you. 16:56</p> <p>13 Q If you had learned that an Ocean 16:56</p> <p>14 Beach police officer was drinking at a bar in</p> <p>15 Ocean Beach while on duty during the period of</p> <p>16 your employment as police commissioner, what, if</p> <p>17 any, action would you have taken?</p> <p>18 MR. NOVIKOFF: Objection. 16:57</p> <p>19 A The most appropriate disciplinary 16:57</p> <p>20 action that I would legally be permitted to take.</p> <p>21</p> <p>22 Q Can you identify that disciplinary 16:57</p> <p>23 action?</p> <p>24 MR. NOVIKOFF: Objection. 16:57</p> <p>25 A Since I don't know what the extent of 16:57</p>

<p style="text-align: right;">Page 213</p> <p>1 N. Rogers</p> <p>2 it is, I can't identify it.</p> <p>3 Q As police commissioner, do you know 16:57</p> <p>4 what the most serious disciplinary action that you</p> <p>5 had the authority to take against an Ocean Beach</p> <p>6 police officer was under any circumstances?</p> <p>7 MR. NOVIKOFF: Objection to the form 16:57</p> <p>8 of the question.</p> <p>9 You can answer. 16:57</p> <p>10 A No, I don't know. 16:57</p> <p>11 Q As police commissioner, did you ever 16:57</p> <p>12 discipline any Ocean Beach police officer?</p> <p>13 MR. NOVIKOFF: Objection. 16:58</p> <p>14 A No. 16:58</p> <p>15 Q Do you have any personal knowledge 16:58</p> <p>16 with respect to the discipline of any police</p> <p>17 officer at Ocean Beach during the period of your</p> <p>18 employment as police commissioner?</p> <p>19 MR. NOVIKOFF: Objection, only to the 16:58</p> <p>20 extent she was not employed as the police</p> <p>21 commissioner.</p> <p>22 A I was not employed. 16:58</p> <p>23 MR. NOVIKOFF: She was not even 16:58</p> <p>24 employed as Mayor. She was Mayor.</p> <p>25 A I was elected as Mayor. 16:58</p>	<p style="text-align: right;">Page 215</p> <p>1 N. Rogers</p> <p>2 Q To your knowledge, did Mr. -- did the 17:00</p> <p>3 individual who served as police commissioner</p> <p>4 immediately prior to you, to your knowledge,</p> <p>5 receive any compensation in connection with the</p> <p>6 service in that position?</p> <p>7 A As police commissioner? 17:00</p> <p>8 Q Yes. 17:00</p> <p>9 A No. 17:00</p> <p>10 Q Did you receive any compensation from 17:00</p> <p>11 the Village of Ocean Beach in connection with your</p> <p>12 service as police commissioner?</p> <p>13 A No. 17:00</p> <p>14 Q To your knowledge, do the 17:01</p> <p>15 responsibilities of -- strike that.</p> <p>16 To your knowledge, do the NYCOM 17:01</p> <p>17 documents that you referenced earlier in your</p> <p>18 testimony identify any responsibilities of police</p> <p>19 commissioner?</p> <p>20 MR. NOVIKOFF: Objection. 17:01</p> <p>21 A I don't know. 17:01</p> <p>22 Q Do you recall whether you ever 17:01</p> <p>23 investigated whether there was a NYCOM document</p> <p>24 that set forth your responsibilities as police</p> <p>25 commissioner?</p>
<p style="text-align: right;">Page 214</p> <p>1 N. Rogers</p> <p>2 MR. NOVIKOFF: And she had 16:58</p> <p>3 responsibilities as the police commissioner.</p> <p>4 That is the only basis for my objection.</p> <p>5 But you can answer the question. 16:58</p> <p>6 Other than that, go ahead.</p> <p>7 A I'm sorry. Repeat the question, 16:58</p> <p>8 please.</p> <p>9 MR. GRAFF: Could the court reporter 16:58</p> <p>10 just read back my last question to Mayor</p> <p>11 Rogers.</p> <p>12 (Record read.) 16:59</p> <p>13 A No. 16:59</p> <p>14 Q Were you elected to the position of 16:59</p> <p>15 police commissioner at any time?</p> <p>16 A It's not an elected position. 16:59</p> <p>17 Q Subsequent to your attaining the role 16:59</p> <p>18 of police commissioner, did you ever run for</p> <p>19 re-election as Mayor?</p> <p>20 A Yes. 16:59</p> <p>21 Q To your knowledge, did the ballots in 16:59</p> <p>22 that election identify or state that you were</p> <p>23 running for the position of Mayor and police</p> <p>24 commissioner?</p> <p>25 A No. 17:00</p>	<p style="text-align: right;">Page 216</p> <p>1 N. Rogers</p> <p>2 A I do not recall. 17:01</p> <p>3 Q Do you recall whether the position of 17:01</p> <p>4 police commissioner is addressed by any Civil</p> <p>5 Service regulations by the Department of Civil</p> <p>6 Service?</p> <p>7 MR. NOVIKOFF: Objection. 17:01</p> <p>8 MS. McEACHIN: Objection. With 17:01</p> <p>9 regard to the Village or --</p> <p>10 MR. GRAFF: Yes, police commissioner 17:01</p> <p>11 of Ocean Beach.</p> <p>12 MR. NOVIKOFF: So the question is, is 17:01</p> <p>13 there a specific regulation within the Civil</p> <p>14 Service laws that refers to the police</p> <p>15 commissioner of Ocean Beach?</p> <p>16 MR. GRAFF: Does she have knowledge 17:02</p> <p>17 as to the existence of any such regulation,</p> <p>18 yes.</p> <p>19 MR. NOVIKOFF: Over my objection, you 17:02</p> <p>20 can answer.</p> <p>21 A No. 17:02</p> <p>22 Q Do you recall whether you ever 17:02</p> <p>23 discussed that issue with Marianne Minerva?</p> <p>24 MR. NOVIKOFF: Objection. What 17:02</p> <p>25 issue?</p>

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<p>1 N. Rogers</p> <p>2 MR. GRAFF: Let me rephrase that 17:02</p> <p>3 question.</p> <p>4 Q Do you recall whether you ever had 17:02</p> <p>5 any discussions with Marianne Minerva concerning</p> <p>6 the existence of any Civil Service requirements</p> <p>7 with respect to the position of police</p> <p>8 commissioner of Ocean Beach?</p> <p>9 MR. NOVIKOFF: Objection, form. 17:02</p> <p>10 A I do not believe I had any 17:02</p> <p>11 conversation with Marianne Minerva on this.</p> <p>12 Q Do you know who Richard Bessette is? 17:02</p> <p>13 A I think I have heard the name as a 17:02</p> <p>14 police officer.</p> <p>15 Q To your knowledge, is Richard 17:02</p> <p>16 Bessette currently a police officer at Ocean</p> <p>17 Beach?</p> <p>18 A I don't know. 17:03</p> <p>19 Q Do you know -- strike that? 17:03</p> <p>20 Prior to the resolution of the 17:03</p> <p>21 Village board of trustees that formalized George</p> <p>22 Hesse's position as acting police chief, did</p> <p>23 George Hesse ever overrule a decision that had</p> <p>24 been made by Ed Paradiso that you have any</p> <p>25 knowledge of?</p>	<p>1 N. Rogers</p> <p>2 THE VIDEOGRAPHER: We have 17:05</p> <p>3 24 minutes.</p> <p>4 MR. NOVIKOFF: How much time do we 17:05</p> <p>5 have in the deposition, left in the</p> <p>6 seven-hour deposition? Better yet, when are</p> <p>7 we up to the five-hour mark?</p> <p>8 VIDEOGRAPHER: About ten minutes. 17:05</p> <p>9 MR. NOVIKOFF: Can you go ten more 17:05</p> <p>10 minutes?</p> <p>11 MR. GRAFF: I think this is a good 17:05</p> <p>12 place for me to stop, if that's acceptable.</p> <p>13 MR. NOVIKOFF: I would prefer us to 17:05</p> <p>14 get as much as we can do today up to that</p> <p>15 two hours that you wanted to keep.</p> <p>16 MR. GRAFF: That's fine. 17:05</p> <p>17 I will ask the court reporter to 17:05</p> <p>18 please mark as Exhibit Rogers 6 a copy of</p> <p>19 the complaint that the plaintiffs have filed</p> <p>20 in this action.</p> <p>21 (Rogers Exhibit 6 marked for 17:06</p> <p>22 identification.)</p> <p>23 BY MR. GRAFF: 17:06</p> <p>24 Q Mayor Rogers, did you earn a salary 17:06</p> <p>25 in connection with your service as Mayor of Ocean</p>
Page 218	Page 220
<p>1 N. Rogers</p> <p>2 A I don't know. I have no knowledge of 17:03</p> <p>3 that.</p> <p>4 Q Do you know whether George Hesse 17:03</p> <p>5 would have had the authority to overrule any</p> <p>6 decision of Edward Paradiso up until the point</p> <p>7 when the resolution formalizing his role as acting</p> <p>8 police chief was enacted?</p> <p>9 MR. NOVIKOFF: Objection. 17:04</p> <p>10 A Do I know? No, I do not know. 17:04</p> <p>11 Q And to be clear, did you know at the 17:04</p> <p>12 time?</p> <p>13 A No. 17:04</p> <p>14 Q To your knowledge, was any 17:04</p> <p>15 investigation ever conducted within the Ocean</p> <p>16 Beach Police Department with respect to the</p> <p>17 conduct of Richard Bessette during his employment</p> <p>18 as a police officer?</p> <p>19 MR. NOVIKOFF: Objection, form. 17:04</p> <p>20 Assuming facts not in evidence.</p> <p>21 You can answer. 17:04</p> <p>22 A I do not know. 17:05</p> <p>23 MR. GRAFF: I would ask the 17:05</p> <p>24 videographer how much time we have left on</p> <p>25 this tape.</p>	<p>1 N. Rogers</p> <p>2 Beach?</p> <p>3 A Yes. 17:06</p> <p>4 Q Do you recall what that salary was in 17:06</p> <p>5 your final year of employment as Mayor of Ocean</p> <p>6 Beach?</p> <p>7 A \$1,500 a year. 17:06</p> <p>8 Q If you could tell me, after you have 17:06</p> <p>9 looked at the first page of this document, whether</p> <p>10 you have ever seen the first page of this document</p> <p>11 before.</p> <p>12 A I did not see this, to my knowledge. 17:07</p> <p>13 Q Okay. Then we can put that document 17:07</p> <p>14 aside.</p> <p>15 Do you have any knowledge as to the 17:07</p> <p>16 existence of any allegation by the plaintiffs in</p> <p>17 this action concerning a coverup orchestrated by</p> <p>18 George Hesse?</p> <p>19 MR. NOVIKOFF: Objection to the form. 17:07</p> <p>20 You can answer the question. 17:07</p> <p>21 A Do I have any knowledge? No. 17:07</p> <p>22 Q I'm asking now any knowledge as to 17:08</p> <p>23 allegations that the plaintiffs may have made on</p> <p>24 that subject.</p> <p>25 MR. NOVIKOFF: Objection. 17:08</p>

<p style="text-align: right;">Page 221</p> <p>1 N. Rogers</p> <p>2 You can answer. 17:08</p> <p>3 A I don't have knowledge of that. 17:08</p> <p>4 Q Okay. And to be clear, do you know 17:08</p> <p>5 if it is the case that these plaintiffs have</p> <p>6 alleged that George Hesse orchestrated an unlawful</p> <p>7 coverup?</p> <p>8 MR. NOVIKOFF: Objection to the form 17:08</p> <p>9 of that question.</p> <p>10 MR. CONNOLLY: Can you repeat the 17:08</p> <p>11 question.</p> <p>12 A I don't know what their allegations 17:08</p> <p>13 are.</p> <p>14 MR. CONNOLLY: Counsel, can we have 17:08</p> <p>15 the question repeated.</p> <p>16 MR. GRAFF: Please. 17:08</p> <p>17 (Record read.) 17:08</p> <p>18 BY MR. GRAFF: 17:09</p> <p>19 Q Did you ever ask George Hesse whether 17:09</p> <p>20 he had engaged in improper conduct in connection</p> <p>21 with his employment at the Ocean Beach Police</p> <p>22 Department?</p> <p>23 MR. NOVIKOFF: Objection to the form 17:09</p> <p>24 of the question.</p> <p>25 You can answer. 17:09</p>	<p style="text-align: right;">Page 223</p> <p>1 N. Rogers</p> <p>2 reporter to please mark as Exhibit Rogers 7</p> <p>3 a one-page document Bates marked P926.</p> <p>4 (Rogers Exhibit 7 marked for 17:11</p> <p>5 identification.)</p> <p>6 BY MR. GRAFF: 17:11</p> <p>7 Q Mayor Rogers, when you have had a 17:11</p> <p>8 chance to look at the document, can you tell me</p> <p>9 whether you have seen the document before.</p> <p>10 MR. JEMAL: Counsel, just a moment. 17:12</p> <p>11 Do you have an extra copy of Exhibit 3? I</p> <p>12 didn't get that one.</p> <p>13 MR. GRAFF: Let's address this off 17:12</p> <p>14 the record.</p> <p>15 A I have read this. 17:13</p> <p>16 Q Have you read this prior to this 17:13</p> <p>17 deposition?</p> <p>18 A I don't believe so. Just now I have 17:13</p> <p>19 read it.</p> <p>20 Q Okay. You can put that document 17:13</p> <p>21 aside. Thank you.</p> <p>22 To your knowledge, is there a video 17:13</p> <p>23 camera, security camera within the Ocean Beach</p> <p>24 Police Department?</p> <p>25 A Yes. 17:13</p>
<p style="text-align: right;">Page 222</p> <p>1 N. Rogers</p> <p>2 A As to the question, no. 17:09</p> <p>3 Q Other than in -- from conversations 17:09</p> <p>4 with counsel, do you have any knowledge as to any</p> <p>5 improper conduct by George Hesse in connection</p> <p>6 with his employment at Ocean Beach?</p> <p>7 MR. NOVIKOFF: Objection to the form 17:10</p> <p>8 of the question.</p> <p>9 You can answer. 17:10</p> <p>10 A No, I do not have any knowledge. 17:10</p> <p>11 Q Do you have any knowledge as to any 17:10</p> <p>12 unlawful conduct committed by George Hesse in</p> <p>13 connection with his employment at Ocean Beach?</p> <p>14 MR. NOVIKOFF: Objection, form. 17:10</p> <p>15 You can answer. 17:10</p> <p>16 A No, I do not have any knowledge. 17:10</p> <p>17 Q If George Hesse had been soliciting 17:10</p> <p>18 contributions, funds from the public for use by</p> <p>19 the Ocean Beach Police Department, would he have</p> <p>20 been required to report on that to the Village</p> <p>21 administrator?</p> <p>22 MR. NOVIKOFF: Objection, form. 17:11</p> <p>23 A I have no idea. 17:11</p> <p>24 MR. CONNOLLY: Same objection. 17:11</p> <p>25 MR. GRAFF: Okay. Ask the court 17:11</p>	<p style="text-align: right;">Page 224</p> <p>1 N. Rogers</p> <p>2 Q To your knowledge, is there a video 17:13</p> <p>3 security camera within George Hesse's office? Let</p> <p>4 me rephrase then.</p> <p>5 To your knowledge, has there at any 17:13</p> <p>6 point during your service as police commissioner</p> <p>7 been a video camera, security camera in George</p> <p>8 Hesse's office at the Ocean Beach Police</p> <p>9 Department?</p> <p>10 A I believe so. 17:14</p> <p>11 Q During what period of time was that 17:14</p> <p>12 camera in George Hesse's office?</p> <p>13 A I don't know. 17:14</p> <p>14 Q Do you have any knowledge as to any 17:14</p> <p>15 video that was recorded by that camera, that is</p> <p>16 the contents of any video recordings?</p> <p>17 A No. I have never seen any. 17:14</p> <p>18 Q Has anyone ever described any such 17:14</p> <p>19 video recordings to you?</p> <p>20 A No. 17:14</p> <p>21 MR. NOVIKOFF: Are we up to the 17:14</p> <p>22 five-hour mark? Okay, let's do a few more</p> <p>23 minutes.</p> <p>24 Q To your knowledge, has any Ocean 17:14</p> <p>25 Beach police officer -- this is during the period</p>

<p style="text-align: right;">Page 225</p> <p>1 N. Rogers</p> <p>2 of your employment as police commissioner or</p> <p>3 Mayor -- discharged their firearm in the line of</p> <p>4 duty?</p> <p>5 A To my knowledge, no, I know of no 17:15</p> <p>6 such thing.</p> <p>7 Q To your knowledge, has any Ocean 17:15</p> <p>8 Beach police officer engaged in a physical</p> <p>9 altercation with any member of the public in the</p> <p>10 performance of their duties as police officers?</p> <p>11 MR. NOVIKOFF: Objection to the form 17:15</p> <p>12 of the question.</p> <p>13 You can answer. 17:15</p> <p>14 A I have heard about such. I have not 17:15</p> <p>15 seen it.</p> <p>16 Q To your knowledge, has any member of 17:15</p> <p>17 the public been hospitalized as a result of any</p> <p>18 physical altercation with a member of the Ocean</p> <p>19 Beach Police Department?</p> <p>20 MR. NOVIKOFF: Objection to the form 17:15</p> <p>21 of the question.</p> <p>22 You can answer. 17:15</p> <p>23 A To my knowledge, yes, I have heard 17:15</p> <p>24 about it.</p> <p>25 Q What specifically have you heard 17:16</p>	<p style="text-align: right;">Page 227</p> <p>1 N. Rogers</p> <p>2 the question.</p> <p>3 A Did I ask anyone about it? Is that 17:17</p> <p>4 the question?</p> <p>5 Q Yes. 17:17</p> <p>6 A The answer is yes. 17:17</p> <p>7 Q Who did you ask about the incident? 17:17</p> <p>8 A George Hesse. 17:17</p> <p>9 Q What did you ask George Hesse? 17:17</p> <p>10 A I said, "Explain what happened in 17:17</p> <p>11 this situation."</p> <p>12 Q And what did George Hesse say in 17:17</p> <p>13 response to that, if anything?</p> <p>14 A He told me that the individual was 17:17</p> <p>15 exceedingly intoxicated, and that he was brought</p> <p>16 into the police station, that an accident happened</p> <p>17 with a clock on the wall, that the individual</p> <p>18 was -- had left and was trying to get back in and</p> <p>19 that he was somehow injured.</p> <p>20 He gave me a, a story about the 17:18</p> <p>21 situation with this individual where an injury did</p> <p>22 occur.</p> <p>23 Q And when you refer to the individual 17:18</p> <p>24 who was highly intoxicated, to your knowledge --</p> <p>25 or strike that.</p>
<p style="text-align: right;">Page 226</p> <p>1 N. Rogers</p> <p>2 about?</p> <p>3 MR. NOVIKOFF: I'm going to object. 17:16</p> <p>4 You can answer. 17:16</p> <p>5 A That an individual got into an 17:16</p> <p>6 altercation with one or more members of the Police</p> <p>7 Department whom I do not know, and resulting in an</p> <p>8 injury and a subsequent hospitalization.</p> <p>9 Q Is that the only such incident that 17:16</p> <p>10 you have knowledge of?</p> <p>11 A Of this kind of thing, yes. 17:16</p> <p>12 Q When did the incident that you are 17:16</p> <p>13 referring to take place?</p> <p>14 A I don't know the date of it. 17:16</p> <p>15 Q Do you know the year of it? 17:16</p> <p>16 A I'm not sure if it's '05 or '06. I 17:17</p> <p>17 don't know.</p> <p>18 Q Is it either '05 or '06? 17:17</p> <p>19 A Could be. 17:17</p> <p>20 Q Upon being informed of this incident, 17:17</p> <p>21 did you ask anybody for further information about</p> <p>22 what was involved in the incident?</p> <p>23 MR. NOVIKOFF: Objection to the 17:17</p> <p>24 extent it calls for your communications with</p> <p>25 counsel. Other than that, you can answer</p>	<p style="text-align: right;">Page 228</p> <p>1 N. Rogers</p> <p>2 Did George Hesse indicate to you that 17:18</p> <p>3 any Ocean Beach police officer who was present at</p> <p>4 that time was also intoxicated?</p> <p>5 A No, he did not. 17:18</p> <p>6 Q What else, if anything, did George 17:19</p> <p>7 Hesse tell you about that incident?</p> <p>8 A He said there were many witnesses to 17:19</p> <p>9 the degree of intoxication of this individual from</p> <p>10 the bar diagonally across the street from the</p> <p>11 police station, where apparently the drinking had</p> <p>12 occurred.</p> <p>13 Q Do you know the name of that bar? 17:19</p> <p>14 A CJ's. 17:19</p> <p>15 Q Do you know who owns the particular 17:19</p> <p>16 bar?</p> <p>17 A No. 17:19</p> <p>18 Q Other than that conversation that you 17:19</p> <p>19 have just been describing with George Hesse, did</p> <p>20 you have any other conversations with George Hesse</p> <p>21 concerning this incident?</p> <p>22 A No. I had more than one conversation 17:19</p> <p>23 regarding the same situation.</p> <p>24 Q Other than what you have already 17:19</p> <p>25 testified to, what, if anything, did George Hesse</p>

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<p style="text-align: right;">Page 229</p> <p>1 N. Rogers</p> <p>2 tell you about the situation?</p> <p>3 MR. NOVIKOFF: Objection. 17:19</p> <p>4 You can answer. 17:19</p> <p>5 A That the individual's behavior was 17:20</p> <p>6 the cause of the incident.</p> <p>7 Q Did George Hesse tell you that the 17:20</p> <p>8 police officers involved had behaved properly in</p> <p>9 connection with this incident?</p> <p>10 MR. NOVIKOFF: Objection to the form 17:20</p> <p>11 of the question.</p> <p>12 You can answer. 17:20</p> <p>13 THE WITNESS: Hmm? 17:20</p> <p>14 MR. NOVIKOFF: You can answer. 17:20</p> <p>15 A Yes. 17:20</p> <p>16 Q Did George Hesse indicate to you that 17:20</p> <p>17 he had any concerns with respect to the question</p> <p>18 of whether the Ocean Beach police officers</p> <p>19 involved in this incident had behaved</p> <p>20 appropriately?</p> <p>21 A Did he have concerns is the question? 17:20</p> <p>22 I don't think he ever gave me any -- I didn't ask</p> <p>23 him. There was no response on that level.</p> <p>24 Q Other than what you have already 17:21</p> <p>25 testified to, have you had any other</p>	<p style="text-align: right;">Page 231</p> <p>1 N. Rogers</p> <p>2 incident?</p> <p>3 A No. Because once it became a 17:22</p> <p>4 lawsuit, it was not advisable to discuss it.</p> <p>5 Q Prior to the time when it became a 17:22</p> <p>6 lawsuit, did you have any conversations with</p> <p>7 anyone other than George Hesse or counsel</p> <p>8 concerning the incident?</p> <p>9 A I may have talked to either one of 17:22</p> <p>10 two trustees.</p> <p>11 Q And which trustees might you have 17:22</p> <p>12 talked to?</p> <p>13 A Trustee Jim Mallott and Trustee Joe 17:22</p> <p>14 Loeffler.</p> <p>15 Q Do you recall what, if anything, 17:22</p> <p>16 Trustee Joe Loeffler said to you about this</p> <p>17 incident?</p> <p>18 A No, I don't. 17:22</p> <p>19 Q Do you recall what, if anything, 17:22</p> <p>20 Trustee Mallott said to you about this incident?</p> <p>21 A No, I don't. 17:23</p> <p>22 Q As police commissioner, did you have 17:23</p> <p>23 a responsibility to conduct any investigation</p> <p>24 yourself concerning this incident?</p> <p>25 MR. NOVIKOFF: Objection. 17:23</p>
<p style="text-align: right;">Page 230</p> <p>1 N. Rogers</p> <p>2 communications with George Hesse concerning that</p> <p>3 incident?</p> <p>4 MR. NOVIKOFF: Objection to the form. 17:21</p> <p>5 You can answer. 17:21</p> <p>6 A No, because there was a subsequent 17:21</p> <p>7 lawsuit, and once something gets into that level,</p> <p>8 I don't discuss it with anybody.</p> <p>9 Q Do you know who is named as a 17:21</p> <p>10 defendant -- or who are named as defendants in</p> <p>11 that lawsuit?</p> <p>12 A No, I do not. 17:21</p> <p>13 Q Do you know whether you are named as 17:21</p> <p>14 a defendant in that lawsuit?</p> <p>15 A I do not. 17:21</p> <p>16 Q Do you know whether that is a civil 17:21</p> <p>17 lawsuit?</p> <p>18 A I don't know. 17:21</p> <p>19 Q Do you know whether that is a 17:21</p> <p>20 criminal lawsuit?</p> <p>21 MR. NOVIKOFF: Objection. 17:21</p> <p>22 A I don't know. 17:21</p> <p>23 Q Other than the conversations that you 17:21</p> <p>24 have testified to with George Hesse, have you</p> <p>25 spoken with anyone other than counsel about this</p>	<p style="text-align: right;">Page 232</p> <p>1 N. Rogers</p> <p>2 You can answer. 17:23</p> <p>3 A I might have had a responsibility, 17:23</p> <p>4 but I was advised that the District Attorney was</p> <p>5 involved and therefore it was inappropriate for me</p> <p>6 to do anything.</p> <p>7 Q How much time had elapsed from when 17:23</p> <p>8 you learned of this incident until you learned</p> <p>9 that the District Attorney was involved in this</p> <p>10 incident?</p> <p>11 A I don't know. 17:23</p> <p>12 Q Would you say it was months? 17:23</p> <p>13 A I don't know. 17:23</p> <p>14 Q Could it have been several months? 17:23</p> <p>15 A Again, I don't know. I believe it 17:23</p> <p>16 was shorter than several months, but I don't know.</p> <p>17 Q Did Trustee Loeffler indicate that he 17:24</p> <p>18 would conduct any sort of investigation concerning</p> <p>19 this incident?</p> <p>20 A I don't -- 17:24</p> <p>21 MR. NOVIKOFF: Object to the form of 17:24</p> <p>22 the question.</p> <p>23 You can answer. 17:24</p> <p>24 A I don't recall. 17:24</p> <p>25 Q Did Trustee Mallott tell you that he 17:24</p>

<p style="text-align: right;">Page 233</p> <p>1 N. Rogers</p> <p>2 was going to conduct any sort of investigation</p> <p>3 concerning this incident?</p> <p>4 MR. NOVIKOFF: Objection to the form 17:24</p> <p>5 of the question.</p> <p>6 A I do not recall. 17:24</p> <p>7 MR. NOVIKOFF: We are past the 17:24</p> <p>8 five-hour mark. Since this is a line of</p> <p>9 questioning that probably hasn't ended, it's</p> <p>10 up to you whether you want to keep going.</p> <p>11 MR. GRAFF: We will pick up when we 17:24</p> <p>12 resume.</p> <p>13 MR. NOVIKOFF: Okay. 17:24</p> <p>14 MR. GRAFF: Unless Mayor Rogers, do 17:24</p> <p>15 you still want to not complete the seven</p> <p>16 hours today?</p> <p>17 (Continued on next page.) 17:24</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 235</p> <p>1</p> <p>2 STATE OF NEW YORK) Pg. of Pgs.</p> <p>3 COUNTY OF NEW YORK)</p> <p>4 I wish to make the following changes</p> <p>5 for the following reasons:</p> <p>6 PAGE LINE</p> <p>7 _____ CHANGE:_____</p> <p>8 _____ REASON:_____</p> <p>9 _____ CHANGE:_____</p> <p>10 _____ REASON:_____</p> <p>11 _____ CHANGE:_____</p> <p>12 _____ REASON:_____</p> <p>13 _____ CHANGE:_____</p> <p>14 _____ REASON:_____</p> <p>15 _____ CHANGE:_____</p> <p>16 _____ REASON:_____</p> <p>17 _____ CHANGE:_____</p> <p>18 _____ REASON:_____</p> <p>19 _____ CHANGE:_____</p> <p>20 _____ REASON:_____</p> <p>21 _____ CHANGE:_____</p> <p>22 _____ REASON:_____</p> <p>23 _____ CHANGE:_____</p> <p>24 _____ REASON:_____</p> <p>25</p> <p style="text-align: right;">NATALIE K. ROGERS</p>
<p style="text-align: right;">Page 234</p> <p>1 N. Rogers</p> <p>2 THE WITNESS: It depends on -- I'm 17:24</p> <p>3 not going to complete seven hours tonight,</p> <p>4 no.</p> <p>5 MR. GRAFF: Okay. So this is a good 17:24</p> <p>6 time to stop.</p> <p>7 THE VIDEOGRAPHER: That concludes the 17:24</p> <p>8 video record for today. The time is now</p> <p>9 5:24 p.m.</p> <p>10 We are now off the record.</p> <p>11 oOO</p> <p>12 I, NATALIE K. ROGERS, the witness</p> <p>13 herein, do hereby certify that the foregoing</p> <p>14 testimony of the pages of this deposition to be a</p> <p>15 true and correct transcript, subject to the</p> <p>16 corrections, if any, shown on the attached page.</p> <p>17</p> <p>18 _____</p> <p>19 NATALIE K. ROGERS</p> <p>20 Subscribed and sworn to before me this</p> <p>21 _____ day of _____, _____.</p> <p>22 _____</p> <p>23 NOTARY PUBLIC</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 236</p> <p>1</p> <p>2 C E R T I F I C A T E</p> <p>3 STATE OF NEW YORK)</p> <p>4 : SS.</p> <p>5 COUNTY OF NEW YORK)</p> <p>6</p> <p>7 I, BONNIE PRUSZYNSKI, a Notary</p> <p>8 Public with and for the State of New York,</p> <p>9 do hereby certify:</p> <p>10 That NATALIE K. ROGERS, the witness</p> <p>11 whose deposition is hereinbefore set forth,</p> <p>12 was duly sworn by me and that such deposition</p> <p>13 is a true record of the testimony given by</p> <p>14 the witness.</p> <p>15 I further certify that I am not related</p> <p>16 to any of the parties to this action by</p> <p>17 blood or marriage, and that I am in no way</p> <p>18 interested in the outcome of this matter.</p> <p>19 IN WITNESS WHEREOF, I have hereunto</p> <p>20 set my hand this 26th of November, 2008.</p> <p>21</p> <p>22 _____</p> <p>23 Bonnie Pruszyński</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 239</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p>EDWARD CARTER, FRANK FIORILLO,) KEVIN LAMM, JOSEPH NOFI, and) THOMAS SNYDER,) Plaintiffs,) vs.) CV 07 1215 INCORPORATED VILLAGE OF OCEAN) BEACH; MAYOR JOSEPH C. LOEFFLER) JR., individually and in his) Official capacity; former mayor) NATALIE K. ROGERS, individually) and in her official capacity,) OCEAN BEACH POLICE DEPARTMENT;) ACTING DEPUTY POLICE CHIEF) GEORGE B. HESSE, individually) And in his official capacity;) SUFFOLK COUNTY; SUFFOLK COUNTY) POLICE DEPARTMENT, SUFFOLK) COUNTY DEPARTMENT OF CIVIL) SERVICE; and ALLISON SANCHEZ,) Individually and in her) Official capacity,) Defendants.) -----)</p> <p style="text-align: center;">CONTINUED VIDEOTAPED DEPOSITION OF NATALIE ROGERS Uniondale, New York Monday, December 15, 2008</p> <p>Reported by: Philip Rizzuti JOB NO. 20200A</p>	<p style="text-align: right;">Page 241</p> <p>1 2 A P P E A R A N C E S: 3 4 THOMPSON WIGDOR & GILLY, LLP 5 Attorneys for Plaintiffs 6 85 Fifth Avenue 7 New York, New York 10003 8 BY: ARIEL Y. GRAFF, ESQ. 9 10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C. 11 Attorneys for George B. Hesse 12 530 Saw Mill Road 13 Elmsford, New York 10523 14 BY: KEVIN W. CONNOLLY, ESQ. 15 16 RIVKIN RADLER, LLP 17 Attorneys for Incorporated Village of 18 Ocean Beach, Joseph Loeffler, Natalie 19 Rogers and Ocean Beach Police Department 20 926 RexCorp Plaza 21 Uniondale, New York 11556-0926 22 BY: KENNETH A. NOVIKOFF, ESQ. 23 MICHAEL P. WELCH, ESQ. 24 25</p>
<p style="text-align: right;">Page 240</p> <p>1 2 3 4 December 15, 2008 5 8:21 a.m. 6 7 Continued videotaped deposition of 8 NATALIE ROGERS, held at the offices of 9 Rivkin Radler, 926 Rexcorp Plaza, 10 Uniondale, New York, pursuant to 11 subpoena, before Philip Rizzuti, a 12 Notary Public of the State of New York 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 242</p> <p>1 2 A P P E A R A N C E S: 3 4 BEE READY FISHBEIN HATTER & DONOVAN, LLP 5 Attorneys for Suffolk County 6 170 Old Country Road 7 Mineola, New York 11501 8 BY: JOSHUA M. JEMAL, ESQ. 9 10 ALSO PRESENT: 11 EDWARD CARTER 12 FRANK FIORILLO 13 KEVIN LAMM 14 JOSEPH NOFI 15 THOMAS SNYDER 16 STEVEN SANPIETRO, Videographer 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: right;">Page 243</p> <p>1 Rogers</p> <p>2 THE VIDEOGRAPHER: This is the</p> <p>3 start tape labeled number 1 of the</p> <p>4 continuing videotape deposition of</p> <p>5 Natalie Rogers in the matter of Edward 08:21:38</p> <p>6 Carter et al., versus the Incorporated</p> <p>7 Village of Ocean Beach, et al.</p> <p>8 This deposition is being held at</p> <p>9 926 Rexcorp Plaza, Uniondale, New York,</p> <p>10 on Monday, December 15, 2008 at 08:21:54</p> <p>11 approximately 8:21 a.m.</p> <p>12 My name is Steve Sanpietro from</p> <p>13 TSG Reporting Inc., and I am the legal</p> <p>14 video specialist. The court reporter</p> <p>15 today is Phil Rizzuti in association with 08:22:06</p> <p>16 TSG Reporting.</p> <p>17 Will counsel please introduce</p> <p>18 yourselves for the record.</p> <p>19 MR. GRAFF: My name is Ari Graff</p> <p>20 from the law firm of Thompson Wigdor & 08:22:17</p> <p>21 Gilly, LLP, LLP, representing the</p> <p>22 plaintiffs who are each here with me</p> <p>23 today, Frank Fiorillo, Edward Carter,</p> <p>24 Kevin Lamm, Joseph Nofi and Thomas</p> <p>25 Snyder. 08:22:30</p>	<p style="text-align: right;">Page 245</p> <p>1 Rogers</p> <p>2 MR. WELCH: Usual stip, Ari,</p> <p>3 objections to form.</p> <p>4 MR. GRAFF: This deposition will</p> <p>5 be governed by the Federal Rules of Civil 08:23:24</p> <p>6 Procedure, local rules for the Eastern</p> <p>7 District of New York. All objections</p> <p>8 except as to form of the question are</p> <p>9 reserved.</p> <p>10 Q. Now, Ms. Rogers, have you ever 08:23:34</p> <p>11 heard of something called Shore Lane</p> <p>12 Properties at Ocean Beach?</p> <p>13 A. Yes.</p> <p>14 Q. Do you -- what is Shore Lane</p> <p>15 Properties? 08:23:51</p> <p>16 A. It is a partnership.</p> <p>17 Q. Are you a part of that</p> <p>18 partnership?</p> <p>19 A. Yes.</p> <p>20 Q. What is the nature of that 08:23:58</p> <p>21 partnership?</p> <p>22 A. It owns a piece of property in Bay</p> <p>23 Shore.</p> <p>24 Q. And how many partners are there in</p> <p>25 that partnership? 08:24:10</p>
<p style="text-align: right;">Page 244</p> <p>1 Rogers</p> <p>2 MR. WELCH: For the Incorporated</p> <p>3 Village of Ocean Beach, Ocean Beach</p> <p>4 Police Department, former Mayor Natalie</p> <p>5 Rogers and Mayor Joseph Loeffler, Rivkin 08:22:36</p> <p>6 Radler by Michael Welch. And also note</p> <p>7 for the record that all other counsel</p> <p>8 were noticed for the deposition today at</p> <p>9 8:15, they have not yet arrived. We are</p> <p>10 going to be starting regardless. That 08:22:49</p> <p>11 would be the Suffolk County defendants</p> <p>12 and also counsel for George Hesse.</p> <p>13 N A T A L I E R O G E R S, called as a</p> <p>14 witness, having been previously duly</p> <p>15 sworn by a Notary Public, was examined</p> <p>16 and testified as follows:</p> <p>17 EXAMINATION BY</p> <p>18 MR. GRAFF:</p> <p>19 Q. Good morning, I know we have been</p> <p>20 through this before, I wanted to remind you if 08:23:04</p> <p>21 at any point I ask a question that you don't</p> <p>22 understand or use a word that doesn't make</p> <p>23 sense or that you don't understand, just let</p> <p>24 me know and I will have an obligation to</p> <p>25 rephrase or reword. 08:23:17</p>	<p style="text-align: right;">Page 246</p> <p>1 Rogers</p> <p>2 A. Three.</p> <p>3 Q. Where is the property in Bay Shore</p> <p>4 located?</p> <p>5 A. At 5 Shore Lane in Bay Shore. 08:24:17</p> <p>6 Q. Are all three partners equal</p> <p>7 partners with respect to their ownership of</p> <p>8 that property?</p> <p>9 A. No.</p> <p>10 Q. Who are the other partners? 08:24:26</p> <p>11 A. The estate of my late husband,</p> <p>12 Charles Rogers, and a trust, the Itkin</p> <p>13 Irrevocable Trust (phonetic) in California.</p> <p>14 Q. When you were here the last time</p> <p>15 and we were talking about properties that you 08:24:49</p> <p>16 owned did you identify Shore Lane Properties?</p> <p>17 MR. WELCH: Objection. You can</p> <p>18 answer.</p> <p>19 A. I don't remember.</p> <p>20 Q. Do you recall when Maryann Minerva 08:24:59</p> <p>21 began working at Ocean Beach?</p> <p>22 A. Not the exact date, no.</p> <p>23 Q. But at a certain point she did</p> <p>24 begin working at Ocean Beach; is that correct?</p> <p>25 A. Yes. 08:25:16</p>

<p style="text-align: right;">Page 247</p> <p>1 Rogers</p> <p>2 Q. What position did Maryann Minerva</p> <p>3 hold at that time when she first began?</p> <p>4 A. Clerk treasurer.</p> <p>5 Q. And as clerk treasurer did Maryann 08:25:27</p> <p>6 Minerva have responsibility with respect to</p> <p>7 civil service compliance issues for employees</p> <p>8 at Ocean Beach?</p> <p>9 A. Yes.</p> <p>10 Q. And what was the nature of her 08:25:36</p> <p>11 responsibility over that issue?</p> <p>12 A. To ascertain from civil service</p> <p>13 what requirements the village had, and to look</p> <p>14 into all of the village personnel and see if</p> <p>15 village personnel complied with civil service 08:26:03</p> <p>16 requirements.</p> <p>17 Q. To the extent that village</p> <p>18 personnel did not comply with civil service</p> <p>19 requirements did Maryann Minerva have any</p> <p>20 further responsibilities? 08:26:15</p> <p>21 A. Not that I recall.</p> <p>22 Q. Who was Maryann Minerva's direct</p> <p>23 supervisor when she began working at Ocean</p> <p>24 Beach?</p> <p>25 MR. WELCH: Objection. You can 08:26:37</p>	<p style="text-align: right;">Page 249</p> <p>1 Rogers</p> <p>2 A. To do anything?</p> <p>3 Q. Yes.</p> <p>4 A. No.</p> <p>5 MR. WELCH: You want to put his 08:27:46</p> <p>6 appearance on the record.</p> <p>7 MR. JEMAL: Joshua Jemal from</p> <p>8 the village attorney's office.</p> <p>9 MR. GRAFF: Mr. Jemal just entered</p> <p>10 the room. 08:27:59</p> <p>11 MR. JEMAL: Yes.</p> <p>12 MR. GRAFF: It looks like</p> <p>13 Mr. Connolly, counsel for defendant</p> <p>14 Hesse, has also arrived.</p> <p>15 Q. Did you believe that Maryann 08:28:07</p> <p>16 Minerva was taking any action to ensure that</p> <p>17 employees at Ocean Beach would be employed in</p> <p>18 compliance with civil service requirements?</p> <p>19 MR. WELCH: Objection. You can</p> <p>20 answer. 08:28:20</p> <p>21 A. Yes.</p> <p>22 Q. Was Maryann Minerva required to</p> <p>23 take any sort of action to ensure that</p> <p>24 employees at Ocean Beach would be employed in</p> <p>25 compliance with civil service requirements? 08:28:32</p>
<p style="text-align: right;">Page 248</p> <p>1 Rogers</p> <p>2 answer.</p> <p>3 A. There was no one on staff who was</p> <p>4 her direct supervisor.</p> <p>5 Q. Was anybody responsible for 08:26:49</p> <p>6 supervising Maryann Minerva's work at Ocean</p> <p>7 Beach?</p> <p>8 A. Only myself to the extent that</p> <p>9 there was supervision.</p> <p>10 Q. Was that the case throughout the 08:27:01</p> <p>11 period when you were serving as mayor and/or</p> <p>12 Police Commissioner of Ocean Beach?</p> <p>13 MR. WELCH: Objection. You can</p> <p>14 answer.</p> <p>15 A. Yes. 08:27:15</p> <p>16 Q. Did you ever direct Maryann</p> <p>17 Minerva to take any action with respect to</p> <p>18 ensuring that employees at Ocean Beach would</p> <p>19 be employed in compliance with any applicable</p> <p>20 civil service requirements? 08:27:25</p> <p>21 A. I don't understand the question.</p> <p>22 Q. Did you ever tell Maryann Minerva</p> <p>23 to do anything to make sure that employees at</p> <p>24 Ocean Beach were in compliance with civil</p> <p>25 service requirements? 08:27:40</p>	<p style="text-align: right;">Page 250</p> <p>1 Rogers</p> <p>2 A. I don't understand the word</p> <p>3 action.</p> <p>4 Q. Well, to the extent that she</p> <p>5 discovered that employees were not in 08:28:42</p> <p>6 compliance did she have any responsibility to</p> <p>7 resolve that non-compliance?</p> <p>8 MR. WELCH: Objection. You can</p> <p>9 answer.</p> <p>10 A. If she could. There were some 08:28:50</p> <p>11 things that she could do and some things that</p> <p>12 she could not do.</p> <p>13 Q. Could you describe what sort of</p> <p>14 things to your understanding she could not do</p> <p>15 with respect to ensuring that employees were 08:29:10</p> <p>16 in compliance with civil service requirements?</p> <p>17 A. If a person did not have the</p> <p>18 required educational background, experience</p> <p>19 background, or any other kind of background</p> <p>20 that civil service required for a particular</p> <p>21 job classification, she could not make them</p> <p>22 get it or make them have it.</p> <p>23 THE VIDEOGRAPHER: The time is</p> <p>24 8:29 a.m. and we are off the record.</p> <p>25 (Recess taken.) 08:30:32</p>

<p style="text-align: right;">Page 251</p> <p>1 Rogers</p> <p>2 THE VIDEOGRAPHER: The time is now</p> <p>3 8:30 a.m., we are now back on the record.</p> <p>4 Q. If Maryann Minerva were to</p> <p>5 determine that an employee at Ocean Beach did 08:31:00</p> <p>6 not have, did not satisfy certain basic</p> <p>7 requirements for employment in any capacity at</p> <p>8 Ocean Beach and she could not resolve that</p> <p>9 situation was anybody at Ocean Beach required</p> <p>10 to take any further action? 08:31:18</p> <p>11 MR. WELCH: Objection to the form.</p> <p>12 You can answer.</p> <p>13 A. Only that I can recall if directed</p> <p>14 by the contact she had with civil service.</p> <p>15 Q. Was Maryann Minerva required to 08:31:37</p> <p>16 bring it to the attention of civil service if</p> <p>17 she discovered that any employee was not in</p> <p>18 compliance with applicable civil service</p> <p>19 requirements?</p> <p>20 MR. WELCH: Objection to form. 08:31:50</p> <p>21 You can answer.</p> <p>22 A. I am not sure that she was</p> <p>23 required to.</p> <p>24 Q. To your knowledge was anybody at</p> <p>25 Ocean Beach required to bring that to the 08:31:57</p>	<p style="text-align: right;">Page 253</p> <p>1 Rogers</p> <p>2 A. Maybe continued employment in the</p> <p>3 same job classification.</p> <p>4 Q. Could you explain what you mean by</p> <p>5 your last response? 08:33:26</p> <p>6 A. Not necessarily continued</p> <p>7 employment.</p> <p>8 Q. And would that mean that they</p> <p>9 could continue employment in another job</p> <p>10 capacity with respect to which they were in 08:33:37</p> <p>11 compliance with civil service requirements?</p> <p>12 A. Perhaps, yes.</p> <p>13 Q. Could it also mean that they could</p> <p>14 continue employment in a capacity in which</p> <p>15 they were not in compliance with civil service 08:33:47</p> <p>16 requirements?</p> <p>17 MR. WELCH: Objection to form.</p> <p>18 You can answer.</p> <p>19 A. To my limited knowledge on this,</p> <p>20 and I did not deal directly with civil 08:33:57</p> <p>21 service, to my limited knowledge unless civil</p> <p>22 service directed someone, directed Maryann to</p> <p>23 terminate someone's employment, that</p> <p>24 individual might have stayed on.</p> <p>25 Q. Did you ever have any 08:34:21</p>
<p style="text-align: right;">Page 252</p> <p>1 Rogers</p> <p>2 attention of civil service?</p> <p>3 A. To my knowledge she was the only</p> <p>4 one who had the contact at civil service.</p> <p>5 Q. To your knowledge if you know how 08:32:06</p> <p>6 would the civil service department come to</p> <p>7 identify that an employee at Ocean Beach was</p> <p>8 not in compliance with applicable</p> <p>9 requirements?</p> <p>10 A. Only if someone in Ocean Beach 08:32:26</p> <p>11 told them.</p> <p>12 Q. Were any of the civil service</p> <p>13 requirements that we have been referring to to</p> <p>14 your knowledge legal requirements for</p> <p>15 continued employment at Ocean Beach? 08:32:41</p> <p>16 MR. WELCH: Objection to the form.</p> <p>17 A. Repeat the question, please.</p> <p>18 Q. Were any of the civil service</p> <p>19 requirements with respect to which Maryann</p> <p>20 Minerva would be investigating the employment 08:33:01</p> <p>21 of employees to ensure compliance, were any of</p> <p>22 those requirements legal requirements for</p> <p>23 continued employment at Ocean Beach?</p> <p>24 MR. WELCH: Objection. You can</p> <p>25 answer. 08:33:15</p>	<p style="text-align: right;">Page 254</p> <p>1 Rogers</p> <p>2 conversations that you can recall with Maryann</p> <p>3 Minerva with respect to that issue?</p> <p>4 A. Only in regard to one individual,</p> <p>5 not police, in another totally different 08:34:36</p> <p>6 capacity.</p> <p>7 Q. What individual are you referring</p> <p>8 to?</p> <p>9 A. Shoshana MacCallum (phonetic).</p> <p>10 Q. What position did Shoshana 08:34:49</p> <p>11 MacCallum hold at that time?</p> <p>12 A. I think she was called archivist.</p> <p>13 Q. What was the nature of the</p> <p>14 non-compliance with respect to Shoshana</p> <p>15 MacCallum's employment as an archivist? 08:35:05</p> <p>16 MR. WELCH: Objection. You can</p> <p>17 answer.</p> <p>18 A. Educational and experience</p> <p>19 background.</p> <p>20 Q. How was that non-compliance issue 08:35:15</p> <p>21 resolved?</p> <p>22 MR. WELCH: Objection. You can</p> <p>23 answer.</p> <p>24 A. Civil service told Maryann, at</p> <p>25 least this is what I have been told by her, 08:35:27</p>

<p style="text-align: right;">Page 255</p> <p>1 Rogers</p> <p>2 civil service told Maryann that we could not</p> <p>3 retain her in that capacity as an employee in</p> <p>4 Ocean Beach.</p> <p>5 Q. Do you recall discussing that 08:35:39</p> <p>6 issue with Maryann Minerva?</p> <p>7 A. Yes.</p> <p>8 Q. What did Maryann Minerva say to</p> <p>9 you about that issue?</p> <p>10 A. It was determined that we would -- 08:35:48</p> <p>11 she would advise Ms. MacCallum of the civil</p> <p>12 service position and offer her another</p> <p>13 position in Ocean Beach to which she would not</p> <p>14 have any requirement problems.</p> <p>15 Q. And did you agree to that 08:36:20</p> <p>16 proposal?</p> <p>17 MR. WELCH: Objection.</p> <p>18 A. Yes.</p> <p>19 MR. WELCH: You can answer.</p> <p>20 A. Yes. 08:36:29</p> <p>21 Q. Do you know who Maryann Minerva's</p> <p>22 contact was at civil service?</p> <p>23 A. No.</p> <p>24 Q. Would it be fair to say that to</p> <p>25 your understanding the continued employment of 08:36:41</p> <p style="text-align: right;">Page 256</p> <p>1 Rogers</p> <p>2 employees who were not in compliance with</p> <p>3 civil service requirements was okay unless</p> <p>4 they got caught by the Department of Civil</p> <p>5 Service? 08:36:52</p> <p>6 MR. WELCH: Objection. Form. You</p> <p>7 can answer.</p> <p>8 A. The words got caught, I am not</p> <p>9 sure I -- scrap that. Yes.</p> <p>10 Q. Did you ever discuss with Maryann 08:37:15</p> <p>11 Minerva whether that was in fact the law with</p> <p>12 respect to civil service requirements of</p> <p>13 employees at Ocean Beach?</p> <p>14 MR. WELCH: Objection. You can</p> <p>15 answer. 08:37:34</p> <p>16 A. No.</p> <p>17 Q. Did you believe that that was</p> <p>18 lawful with respect to civil service</p> <p>19 requirements for employees at Ocean Beach?</p> <p>20 MR. WELCH: Objection. You can 08:37:46</p> <p>21 answer.</p> <p>22 A. I believe that she was doing her</p> <p>23 job appropriately.</p> <p>24 Q. Other than yourself was there</p> <p>25 anybody else at Ocean Beach who had any 08:37:54</p>	<p style="text-align: right;">Page 257</p> <p>1 Rogers</p> <p>2 responsibility with respect to determining</p> <p>3 that Maryann Minerva was performing her job as</p> <p>4 required?</p> <p>5 MR. WELCH: Objection. You can 08:38:05</p> <p>6 answer.</p> <p>7 A. The trustees may or may not have</p> <p>8 had opinions on it, I don't know, because they</p> <p>9 were all in contact with her.</p> <p>10 Q. Which trustees are you referring 08:38:21</p> <p>11 to?</p> <p>12 A. There are four trustees plus</p> <p>13 myself that comprise the board.</p> <p>14 Q. I would like to ask the court</p> <p>15 reporter to please mark as, Rogers Exhibit 8, 08:38:43</p> <p>16 a one-page document bearing Bates number</p> <p>17 005769.</p> <p>18 (Rogers Exhibit 8, one-page</p> <p>19 document bearing Bates number 005769,</p> <p>20 marked for identification, as of this 08:38:58</p> <p>21 date.)</p> <p>22 Q. If you could please review the</p> <p>23 document and when you have had a chance to</p> <p>24 look at it -- I will note that Mr. Welch is</p> <p>25 reviewing the document. 08:39:49</p> <p style="text-align: right;">Page 258</p> <p>1 Rogers</p> <p>2 MR. WELCH: Would you like her to</p> <p>3 read it?</p> <p>4 MR. GRAFF: No, I would like her</p> <p>5 to review it silently and let me know 08:39:56</p> <p>6 once she had a chance to review the</p> <p>7 document.</p> <p>8 MR. WELCH: Read each paragraph.</p> <p>9 A. I looked at this.</p> <p>10 Q. Mayor Rogers, do you recognize 08:40:46</p> <p>11 that document?</p> <p>12 A. I may have seen it, but I really</p> <p>13 don't recall it.</p> <p>14 Q. At the bottom left corner of the</p> <p>15 document the document says cc in handwriting, 08:40:56</p> <p>16 Natalie K. Rogers, Mayor. Maryann Minerva,</p> <p>17 Administrator.</p> <p>18 Do you have any idea who would</p> <p>19 have written that on this document?</p> <p>20 A. I don't know. 08:41:11</p> <p>21 Q. If you look at the first paragraph</p> <p>22 of the text the second or third sentence says:</p> <p>23 Although we previously approved the</p> <p>24 appointment of Mr. Loeffler, the Police</p> <p>25 Officer Training Certificate is a legal 08:41:27</p>
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5 (Pages 255 to 258)

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<p>1 Rogers</p> <p>2 MR. GRAFF: Good morning</p> <p>3 Mr. Novikoff.</p> <p>4 Q. To your knowledge were there any</p> <p>5 other positions at Ocean Beach with respect to 08:47:10</p> <p>6 which a training certificate was a legal</p> <p>7 requirement for continued employment?</p> <p>8 MR. NOVIKOFF: Objection. You can</p> <p>9 answer.</p> <p>10 A. Not to my knowledge. 08:47:22</p> <p>11 Q. To your knowledge was the role of</p> <p>12 the Board of Trustees with respect to</p> <p>13 approving of the hiring of the personnel that</p> <p>14 you referred to a moment ago codified or</p> <p>15 memorialized in writing anywhere? 08:47:38</p> <p>16 A. Not to my knowledge.</p> <p>17 Q. To your knowledge did the Village</p> <p>18 Board of Trustees have any role with respect</p> <p>19 to determining the salaries for employees at</p> <p>20 Ocean Beach? 08:47:49</p> <p>21 MR. NOVIKOFF: Objection.</p> <p>22 Timeframe?</p> <p>23 Q. During your service as mayor of</p> <p>24 Ocean Beach?</p> <p>25 A. Yes. 08:47:58</p>	<p>1 Rogers</p> <p>2 for identification, as of this date.)</p> <p>3 Q. Mayor Rogers, if you could take a</p> <p>4 look at this document marked as Rogers Exhibit</p> <p>5 9 and let me know once you have finished 08:50:03</p> <p>6 reviewing it.</p> <p>7 A. I have read it.</p> <p>8 Q. Mr. Novikoff is holding the</p> <p>9 document, okay.</p> <p>10 Mayor Rogers, can you identify the 08:50:53</p> <p>11 document marked as Rogers Exhibit 9?</p> <p>12 A. Yes.</p> <p>13 Q. What is that document?</p> <p>14 A. Part of the minutes of a meeting.</p> <p>15 Q. Is that a meeting of the Board of 08:51:02</p> <p>16 Trustees held on January 28, 2006?</p> <p>17 A. That is what it says, yes.</p> <p>18 Q. Do you recall whether you have</p> <p>19 ever reviewed this page of the minutes before?</p> <p>20 A. Yes. I did. 08:51:13</p> <p>21 MR. NOVIKOFF: Let the record</p> <p>22 reflect that there is an arrow --</p> <p>23 A. Only as to the arrow, yes.</p> <p>24 MR. NOVIKOFF: There is an arrow</p> <p>25 on this exhibit. So is the question 08:51:26</p>
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<p>1 Rogers</p> <p>2 Q. With respect to what positions did</p> <p>3 the Village Board of Trustees exercise that</p> <p>4 responsibility?</p> <p>5 A. Ultimately all employees of the 08:48:11</p> <p>6 village since the board approved a budget of</p> <p>7 which salaries were a part of that budget.</p> <p>8 Q. To your knowledge did the Suffolk</p> <p>9 County Department of Civil Service -- strike</p> <p>10 that. 08:48:45</p> <p>11 To your knowledge was the village</p> <p>12 budget that set forth the salaries that you</p> <p>13 just referred to ever provided to the Suffolk</p> <p>14 County Department of Civil Service?</p> <p>15 A. I don't know. 08:48:55</p> <p>16 Q. I am going to ask the court</p> <p>17 reporter to please mark as Rogers Exhibit 9, a</p> <p>18 one-page document bearing Bates number 28. I</p> <p>19 will note for the record that this document</p> <p>20 appears to have been part of a multipage 08:49:16</p> <p>21 document, but I am asking the court reporter</p> <p>22 to mark the only page of that document that</p> <p>23 was apparently produced.</p> <p>24 (Rogers Exhibit 9, one-page</p> <p>25 document bearing Bates number 28, marked 08:49:08</p>	<p>1 Rogers</p> <p>2 counsel did she ever see a copy of this</p> <p>3 document with the arrow on it or without</p> <p>4 the arrow?</p> <p>5 MR. GRAFF: I will clarify that. 08:51:35</p> <p>6 I will note that we didn't place the</p> <p>7 arrow.</p> <p>8 MR. NOVIKOFF: I am not suggesting</p> <p>9 that you did.</p> <p>10 Q. Mayor Rogers, did you ever see a 08:51:42</p> <p>11 copy of this document without the arrow on it?</p> <p>12 A. Yes.</p> <p>13 Q. Did you ever see a copy of this</p> <p>14 document before today with the arrow on it?</p> <p>15 A. No. 08:51:52</p> <p>16 Q. Did you see this document</p> <p>17 within -- strike that.</p> <p>18 Do you recall approximately when</p> <p>19 you saw this document for the first time?</p> <p>20 A. Minutes of all meetings were 08:52:09</p> <p>21 prepared after the meeting. If it took --</p> <p>22 whatever time it took to translate the work of</p> <p>23 a meeting into a written set of minutes, as</p> <p>24 soon as I got a copy I saw it. It was not</p> <p>25 always the same amount of time after each 08:52:34</p>

7 (Pages 263 to 266)

<p style="text-align: right;">Page 267</p> <p>1 Rogers</p> <p>2 meeting.</p> <p>3 Q. Who was responsible for compiling</p> <p>4 the minutes of Board of Trustees meetings?</p> <p>5 MR. NOVIKOFF: Objection. 08:52:48</p> <p>6 A. Can I answer?</p> <p>7 MR. NOVIKOFF: Yes.</p> <p>8 A. Maryann Minerva if she were at the</p> <p>9 meeting.</p> <p>10 Q. And if Maryann Minerva were not at 08:52:58</p> <p>11 the meeting was there a specific person who</p> <p>12 would take on that responsibility?</p> <p>13 A. Whoever was at the meeting and was</p> <p>14 recording the minutes. All minutes were</p> <p>15 recorded. 08:53:14</p> <p>16 Q. Do you recall whether you were</p> <p>17 present at the January 28, 2006 meeting</p> <p>18 reflected in these minutes?</p> <p>19 A. I believe I was. May I?</p> <p>20 MR. NOVIKOFF: Yes, you may. 08:53:34</p> <p>21 Q. Do you recall --</p> <p>22 MR. NOVIKOFF: Do you need to look</p> <p>23 at it to further answer your question?</p> <p>24 THE WITNESS: I just want to get</p> <p>25 the date. 08:53:42</p> <p style="text-align: right;">Page 268</p>	<p style="text-align: right;">Page 269</p> <p>1 Rogers</p> <p>2 MR. NOVIKOFF: So now the question</p> <p>3 is reading the document, the paragraph</p> <p>4 with the arrow, does this refresh your</p> <p>5 recollection independent as to what is 08:55:04</p> <p>6 said in this paragraph as to who made the</p> <p>7 motion. That is the only question?</p> <p>8 THE WITNESS: It does refresh it,</p> <p>9 yes.</p> <p>10 Q. Who made that motion? 08:55:13</p> <p>11 A. Joe Loeffler. Trustee Joe</p> <p>12 Loeffler.</p> <p>13 Q. Do you recall if Trustee Mallott</p> <p>14 seconded this motion?</p> <p>15 A. Independent of this? 08:55:28</p> <p>16 Q. After looking at this do you have</p> <p>17 an independent recollection?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall whether anyone</p> <p>20 present at that meeting did not support that 08:55:41</p> <p>21 motion?</p> <p>22 A. I believe it was voted</p> <p>23 unanimously.</p> <p>24 Q. Do you recall whether there was</p> <p>25 any discussion of the motion aside from it 08:55:52</p> <p style="text-align: right;">Page 270</p>
<p>1 Rogers</p> <p>2 A. Yes, I believe I was.</p> <p>3 Q. Do you recall independent from</p> <p>4 this document whether there was any discussion</p> <p>5 at that Board of Trustees meeting concerning 08:53:57</p> <p>6 designation of George Hesse as Deputy Chief of</p> <p>7 Police?</p> <p>8 A. I don't recall that there was any.</p> <p>9 Q. Do you recall that at some point</p> <p>10 there was a motion before the Village Board of 08:54:16</p> <p>11 Trustees to designate George Hesse as Deputy</p> <p>12 Chief of Police?</p> <p>13 MR. NOVIKOFF: Objection. You can</p> <p>14 answer.</p> <p>15 A. Yes. 08:54:26</p> <p>16 Q. Do you recall who proposed that</p> <p>17 motion?</p> <p>18 MR. NOVIKOFF: Without looking at</p> <p>19 the document.</p> <p>20 A. Without looking at the document I 08:54:33</p> <p>21 do not recall who proposed it.</p> <p>22 Q. If I could ask you to please take</p> <p>23 a moment to look over the paragraph of the</p> <p>24 document marked with an arrow to the extent</p> <p>25 that it might refresh your recollection. 08:54:52</p>	<p>1 Rogers</p> <p>2 being made and it being voted upon?</p> <p>3 MR. NOVIKOFF: Objection. You can</p> <p>4 answer.</p> <p>5 A. Not at the time of the motion. 08:55:58</p> <p>6 Q. Do you recall whether there were</p> <p>7 any discussions about the Village Board of</p> <p>8 Trustees with respect to the designation of</p> <p>9 George Hesse as Deputy Chief of Police prior</p> <p>10 to this meeting? 08:56:14</p> <p>11 MR. NOVIKOFF: Objection. You can</p> <p>12 answer.</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall whether there was</p> <p>15 more than such conversation? 08:56:22</p> <p>16 A. I don't recall that.</p> <p>17 Q. In substance what do you recall of</p> <p>18 the conversation among the Village Board of</p> <p>19 Trustees concerning designation of George</p> <p>20 Hesse as Deputy Chief of Police? 08:56:35</p> <p>21 A. All trustees after discussion</p> <p>22 seemed to agree that this would be an</p> <p>23 appropriate designation.</p> <p>24 Q. Was there any discussion with</p> <p>25 respect to appointing anyone other than George 08:56:59</p>

<p style="text-align: right;">Page 271</p> <p>1 Rogers</p> <p>2 Hesse to be Acting Police Chief at that time?</p> <p>3 A. Not that I recall.</p> <p>4 Q. Do you recall whether you said</p> <p>5 anything in conversations with other trustees 08:57:12</p> <p>6 with respect to the proposed designation of</p> <p>7 George Hesse as Deputy Chief of Police?</p> <p>8 MR. NOVIKOFF: Outside the</p> <p>9 presence of counsel, unless pursuant to</p> <p>10 Judge Boyle's instruction the 08:57:28</p> <p>11 conversation took place in executive</p> <p>12 session, which we will still object to</p> <p>13 and may appeal, but you have to answer</p> <p>14 that. So do you understand the</p> <p>15 parameters? 08:57:34</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. NOVIKOFF: Okay.</p> <p>18 A. The answer -- now the question is</p> <p>19 did I; you are asking for my opinion on this?</p> <p>20 Q. Yes, whether you expressed any 08:57:46</p> <p>21 view on that?</p> <p>22 A. Yes, I did.</p> <p>23 Q. What view did you express?</p> <p>24 A. I agreed with the -- with the</p> <p>25 concept. 08:57:58</p>	<p style="text-align: right;">Page 273</p> <p>1 Rogers</p> <p>2 favorably inclined.</p> <p>3 Q. Did Ed Paradiso express that to</p> <p>4 you in an oral communication?</p> <p>5 A. Yes. 08:59:15</p> <p>6 Q. Do you recall whether he gave any</p> <p>7 reasons for his belief?</p> <p>8 A. I do not.</p> <p>9 Q. Do you recall whether you asked</p> <p>10 him if there were any reasons for his belief? 08:59:29</p> <p>11 A. I do not.</p> <p>12 Q. Do you recall anything else of</p> <p>13 your conversation with Ed Paradiso in which he</p> <p>14 expressed that belief?</p> <p>15 A. No. 08:59:42</p> <p>16 Q. At the January 28, 2006 meeting of</p> <p>17 the Village Board of Trustees when it was</p> <p>18 proposed that George Hesse be designated as</p> <p>19 Deputy Chief of Police was there any</p> <p>20 discussion concerning Ed Paradiso's opinion 09:00:00</p> <p>21 that George Hesse should not be appointed to</p> <p>22 that position?</p> <p>23 MR. NOVIKOFF: Objection. You can</p> <p>24 answer.</p> <p>25 A. No. 09:00:11</p>
<p style="text-align: right;">Page 272</p> <p>1 Rogers</p> <p>2 Q. When you were last here we had</p> <p>3 some discussion about Ed Paradiso's views on</p> <p>4 that topic. Do you recall what Ed Paradiso's</p> <p>5 view was if any with respect to the proposed 08:58:09</p> <p>6 designation of George Hesse as Deputy Chief of</p> <p>7 Police?</p> <p>8 MR. NOVIKOFF: Objection to the</p> <p>9 extent that it was already asked and</p> <p>10 answered. You can answer. 08:58:18</p> <p>11 A. Yes.</p> <p>12 Q. And I know we did cover this the</p> <p>13 last time, but just so we are clear on the</p> <p>14 series of questions that is to come, what was</p> <p>15 Ed Paradiso's opinion with respect to the 08:58:39</p> <p>16 designation of George Hesse as Deputy Chief of</p> <p>17 Police?</p> <p>18 MR. NOVIKOFF: Objection, asked</p> <p>19 and answered. Counsel, I will take ten</p> <p>20 seconds. You prefaced the question by 08:58:47</p> <p>21 saying that we already covered this. So</p> <p>22 her answer is in the transcript, so I</p> <p>23 don't know why you are asking her again.</p> <p>24 But you can answer the question.</p> <p>25 A. I believe Ed Paradiso was not 08:58:58</p>	<p style="text-align: right;">Page 274</p> <p>1 Rogers</p> <p>2 Q. Did you ever relay Ed Paradiso's</p> <p>3 opinion to any members of the Village Board of</p> <p>4 Trustees?</p> <p>5 A. I don't recall. 09:00:27</p> <p>6 Q. Do you recall whether any members</p> <p>7 of the Village Board of Trustees ever</p> <p>8 indicated to you in any way that they were</p> <p>9 aware of Ed Paradiso's opinion with respect to</p> <p>10 the designation of George Hesse as Deputy or 09:00:44</p> <p>11 Acting Chief of Police?</p> <p>12 A. No.</p> <p>13 Q. Do you recall whether you spoke</p> <p>14 with anyone other than Ed Paradiso about Ed</p> <p>15 Paradiso's belief that George Hesse should not 09:01:05</p> <p>16 be appointed Deputy Chief of Police?</p> <p>17 MR. NOVIKOFF: Objection. You may</p> <p>18 answer.</p> <p>19 A. I may have spoken to one or more</p> <p>20 trustees, but I don't recall it. 09:01:18</p> <p>21 Q. Do you recall why you might have</p> <p>22 spoken to a member of the Board of Trustees</p> <p>23 about that issue?</p> <p>24 A. Because I talk to the trustees</p> <p>25 about a lot of things. 09:01:34</p>

<p style="text-align: right;">Page 275</p> <p>1 Rogers</p> <p>2 Q. Did you consider Ed Paradiso's</p> <p>3 opinion on the subject to be relevant to the</p> <p>4 Board of Trustees' determination as to whether</p> <p>5 Hesse should be appointed? 09:01:47</p> <p>6 MR. NOVIKOFF: Objection. You can</p> <p>7 answer.</p> <p>8 A. No.</p> <p>9 Q. For what reason did you not</p> <p>10 consider that to be relevant? 09:01:58</p> <p>11 MR. NOVIKOFF: Objection only to</p> <p>12 the term relevant, but you can answer.</p> <p>13 A. I had some other concerns about</p> <p>14 the veracity of Ed Paradiso.</p> <p>15 Q. Does that relate to that time 09:02:10</p> <p>16 overlap that we discussed the last time that</p> <p>17 you were here?</p> <p>18 A. Yes.</p> <p>19 Q. Did you ever discuss that time</p> <p>20 overlap that you discovered with any members 09:02:16</p> <p>21 of the Village Board of Trustees?</p> <p>22 A. I think so.</p> <p>23 Q. Do you recall which trustees you</p> <p>24 discussed that with?</p> <p>25 A. I may have discussed it with 09:02:37</p>	<p style="text-align: right;">Page 277</p> <p>1 Rogers</p> <p>2 hearsay sources. So that is the basis</p> <p>3 for my objection to the questions.</p> <p>4 MR. GRAFF: Okay.</p> <p>5 Q. To clarify, do you have any 09:03:51</p> <p>6 information that would lead you to believe</p> <p>7 that anyone at Ocean Beach ever spoke with Ed</p> <p>8 Paradiso about your investigation of the time</p> <p>9 overlap issue?</p> <p>10 A. Ever spoke with Ed Paradiso is the 09:04:03</p> <p>11 question?</p> <p>12 Q. Yes.</p> <p>13 A. I don't know.</p> <p>14 Q. Do you have any information that</p> <p>15 would lead you to believe that anyone at Ocean 09:04:10</p> <p>16 Beach ever communicated with Ed Paradiso with</p> <p>17 respect to the time overlap issue?</p> <p>18 A. Someone may have, but I don't know</p> <p>19 if there was communication.</p> <p>20 Q. Turning back to the Exhibit Rogers 09:04:26</p> <p>21 9 with the arrow pointing to the paragraph, it</p> <p>22 states that: Due to circumstances that are</p> <p>23 taking place within the Ocean Beach Police</p> <p>24 Department with the chief out on medical leave</p> <p>25 for past four months. 09:04:50</p>
<p style="text-align: right;">Page 276</p> <p>1 Rogers</p> <p>2 Trustee Mallott.</p> <p>3 Q. In substance do you recall</p> <p>4 anything of that discussion with Trustee</p> <p>5 Mallott? 09:02:50</p> <p>6 MR. NOVIKOFF: Objection. You can</p> <p>7 answer.</p> <p>8 A. There was no resolution.</p> <p>9 Q. Do you recall whether Trustee</p> <p>10 Mallott agreed with your conclusions with 09:03:01</p> <p>11 respect to your investigation of that time</p> <p>12 overlap issue?</p> <p>13 MR. NOVIKOFF: Objection.</p> <p>14 A. I do not recall.</p> <p>15 Q. To your knowledge did anyone at 09:03:11</p> <p>16 Ocean Beach ever have any discussion directly</p> <p>17 with Ed Paradiso concerning your investigation</p> <p>18 of the time overlap issue?</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 A. Did anyone in Ocean Beach; I don't 09:03:31</p> <p>21 know.</p> <p>22 MR. NOVIKOFF: Counselor, my</p> <p>23 objections are to the questions starting</p> <p>24 with to your knowledge. You mean</p> <p>25 personal knowledge or based on multiple 09:03:42</p>	<p style="text-align: right;">Page 278</p> <p>1 Rogers</p> <p>2 Do you know what that is referring</p> <p>3 to?</p> <p>4 A. He had an injured foot which</p> <p>5 created a medical disability situation where 09:04:57</p> <p>6 he could not perform all of the duties of the</p> <p>7 Chief of Police.</p> <p>8 Q. Was he still serving as of January</p> <p>9 28, 2006, was Ed Paradiso still serving with</p> <p>10 respect to any of the duties of Chief of 09:05:17</p> <p>11 Police?</p> <p>12 MR. NOVIKOFF: Objection. You can</p> <p>13 answer.</p> <p>14 A. He may have been doing some of</p> <p>15 them. He did not do all of them. 09:05:25</p> <p>16 Q. Do you recall whether on January</p> <p>17 28, 2006 there were any discussions among the</p> <p>18 Village Board of Trustees with respect to the</p> <p>19 specific duties that Ed Paradiso was or was</p> <p>20 not fulfilling at that time? 09:05:44</p> <p>21 A. No, I do not recall.</p> <p>22 Q. Thank you.</p> <p>23 Going on in the paragraph Trustee</p> <p>24 Loeffler made motion to designate George Hesse</p> <p>25 as Deputy Chief of Police with all power and 09:05:57</p>

<p style="text-align: right;">Page 279</p> <p>1 Rogers</p> <p>2 authority involved with that position.</p> <p>3 Do you understand what this</p> <p>4 document refers to by the statement with all</p> <p>5 power and authority involved with that 09:06:07</p> <p>6 position?</p> <p>7 MR. NOVIKOFF: Objection.</p> <p>8 A. Do I understand?</p> <p>9 Q. Yes.</p> <p>10 A. Yes. 09:06:15</p> <p>11 Q. And what is that referring to?</p> <p>12 MR. NOVIKOFF: Objection. You can</p> <p>13 answer.</p> <p>14 A. Scheduling, hiring, budget</p> <p>15 compliance, monitoring the police office. 09:06:28</p> <p>16 Giving out summonses and any and all other</p> <p>17 things that the Police Department did.</p> <p>18 Q. Would that include power and</p> <p>19 authority to terminate police officers at</p> <p>20 Ocean Beach? 09:07:01</p> <p>21 MR. NOVIKOFF: Objection. You can</p> <p>22 answer.</p> <p>23 A. As of that date?</p> <p>24 Q. Yes.</p> <p>25 A. There was nobody to terminate. We 09:07:11</p>	<p style="text-align: right;">Page 281</p> <p>1 Rogers</p> <p>2 summer community were hired in the spring for</p> <p>3 a seasonal job, and at the end of the season</p> <p>4 in the fall, I can't give you dates</p> <p>5 specifically because I did not do the hiring, 09:08:48</p> <p>6 their job was concluded because it was a</p> <p>7 limited hiring.</p> <p>8 Q. Did Ed Paradiso sustain his injury</p> <p>9 that necessitated his absence from Ocean Beach</p> <p>10 in some capacity during the summer of 2005? 09:09:18</p> <p>11 MR. NOVIKOFF: Objection.</p> <p>12 A. I don't know when he sustained it.</p> <p>13 Q. Do you have any reason to believe</p> <p>14 that he sustained his injury more than four</p> <p>15 months prior to January 28, 2006? 09:09:31</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. I don't know.</p> <p>18 Q. If I could ask the court reporter</p> <p>19 to please mark as Rogers Exhibit 10, a</p> <p>20 two-page document bearing Bates numbers 3879 09:09:50</p> <p>21 and 3880.</p> <p>22 (Rogers Exhibit 10, two-page</p> <p>23 document bearing Bates numbers 3879 and</p> <p>24 3880, marked for identification, as of</p> <p>25 this date.) 09:10:28</p>
<p style="text-align: right;">Page 280</p> <p>1 Rogers</p> <p>2 only had two full-time police officers.</p> <p>3 Q. And is that because this was the</p> <p>4 off season, the winter?</p> <p>5 A. Yes. 09:07:25</p> <p>6 Q. In that paragraph when it says</p> <p>7 that the chief had been out on medical leave</p> <p>8 for the past four months, to your knowledge is</p> <p>9 that an accurate statement?</p> <p>10 MR. NOVIKOFF: Objection. 09:07:39</p> <p>11 A. The word out which could be --</p> <p>12 which could mean did nothing may be too</p> <p>13 severe. I think he did limited activity with</p> <p>14 regard to the job of police chief.</p> <p>15 Q. Earlier a moment ago I had 09:08:06</p> <p>16 referred to the off season at Ocean Beach.</p> <p>17 Did you understand what I was referring to?</p> <p>18 MR. NOVIKOFF: Objection.</p> <p>19 A. Yes.</p> <p>20 Q. And could you explain what your 09:08:16</p> <p>21 understanding of the off season at Ocean Beach</p> <p>22 is?</p> <p>23 MR. NOVIKOFF: Objection. Asked</p> <p>24 and answered. But you can answer.</p> <p>25 A. Most police officers since it is a 09:08:29</p>	<p style="text-align: right;">Page 282</p> <p>1 Rogers</p> <p>2 MR. NOVIKOFF: Objection. I will</p> <p>3 note -- he didn't ask you to do anything</p> <p>4 with this.</p> <p>5 MR. GRAFF: No. 09:10:32</p> <p>6 MR. NOVIKOFF: I will note for the</p> <p>7 record that on this two-page document</p> <p>8 which is Rogers Exhibit 10 it appears to</p> <p>9 be an incomplete part of an entire</p> <p>10 minutes of the Board of Trustees meeting, 09:10:44</p> <p>11 and it is only page 6 and 7. I also note</p> <p>12 on the first page that there is a, what</p> <p>13 appears to be a handwritten star on the</p> <p>14 document.</p> <p>15 MR. GRAFF: I will note that it 09:10:54</p> <p>16 was produced to us in this manner.</p> <p>17 MR. NOVIKOFF: That is fine.</p> <p>18 Q. Mayor Rogers, when the Village</p> <p>19 Board of Trustees meets in executive session</p> <p>20 are there any minutes taken with respect to 09:11:05</p> <p>21 executive session?</p> <p>22 A. No.</p> <p>23 Q. Are there any -- strike that.</p> <p>24 Does Maryann Minerva attend</p> <p>25 executive sessions of the Village Board of 09:11:22</p>

<p style="text-align: right;">Page 283</p> <p>1 Rogers</p> <p>2 Trustees?</p> <p>3 MR. NOVIKOFF: While she was</p> <p>4 mayor?</p> <p>5 MR. GRAFF: Yes. 09:11:28</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall whether Maryann</p> <p>8 Minerva ever took notes during executive</p> <p>9 session?</p> <p>10 A. I do not recall. 09:11:34</p> <p>11 Q. Do you recall whether anyone took</p> <p>12 notes during executive session?</p> <p>13 A. Sometimes I did, but not all the</p> <p>14 time.</p> <p>15 Q. Do you recall whether you ever 09:11:50</p> <p>16 took notes during an executive session with</p> <p>17 respect to discussions concerning the Ocean</p> <p>18 Beach Police Department?</p> <p>19 A. No.</p> <p>20 Q. Do you recall whether notes from 09:12:13</p> <p>21 executive session were ever preserved at Ocean</p> <p>22 Beach?</p> <p>23 MR. NOVIKOFF: Are you done with</p> <p>24 the question?</p> <p>25 MR. GRAFF: Yes. 09:12:29</p>	<p style="text-align: right;">Page 285</p> <p>1 Rogers</p> <p>2 MR. GRAFF: I believe that your</p> <p>3 instruction is bordering on coaching.</p> <p>4 MR. NOVIKOFF: Not even close to</p> <p>5 coaching. 09:13:39</p> <p>6 A. To my knowledge --</p> <p>7 MR. NOVIKOFF: Yes, to your</p> <p>8 knowledge.</p> <p>9 A. To my knowledge it would be in the</p> <p>10 guidelines for village officials on the 09:13:48</p> <p>11 conduct of meetings in the village.</p> <p>12 Q. And are those guidelines set forth</p> <p>13 in the NYCOM documents that you referred to</p> <p>14 when we were last here?</p> <p>15 A. They would be. 09:14:02</p> <p>16 Q. Do you recall whether you had any</p> <p>17 conversations with Trustee Loeffler with</p> <p>18 respect to Ed Paradiso's opinion that George</p> <p>19 Hesse should not be appointed Deputy Police</p> <p>20 Chief? 09:14:21</p> <p>21 MR. NOVIKOFF: Objection. Asked</p> <p>22 and answered.</p> <p>23 A. I do not recall.</p> <p>24 Q. Other than what you have testified</p> <p>25 to so far do you recall anything else that was 09:14:30</p>
<p style="text-align: right;">Page 284</p> <p>1 Rogers</p> <p>2 MR. NOVIKOFF: Objection.</p> <p>3 A. To my knowledge, no.</p> <p>4 Q. To your knowledge was there any</p> <p>5 reason why formal minutes were not taken 09:12:35</p> <p>6 during executive sessions?</p> <p>7 MR. NOVIKOFF: Objection.</p> <p>8 A. To my knowledge there was no</p> <p>9 requirement for it.</p> <p>10 Q. To your knowledge was there a 09:12:44</p> <p>11 requirement that minutes be maintained with</p> <p>12 respect to regular sessions?</p> <p>13 MR. NOVIKOFF: Objection.</p> <p>14 A. I believe they were required, yes.</p> <p>15 Q. Where would that requirement be 09:12:58</p> <p>16 written down if anywhere as far as you know?</p> <p>17 MR. NOVIKOFF: Note my objection.</p> <p>18 A. Probably in --</p> <p>19 MR. NOVIKOFF: Don't say probably.</p> <p>20 If you know you know, if you don't you 09:13:23</p> <p>21 don't.</p> <p>22 MR. GRAFF: Mr. Novikoff --</p> <p>23 MR. NOVIKOFF: I am just</p> <p>24 instructing my witness how to answer the</p> <p>25 question. There is no guessing. 09:13:31</p>	<p style="text-align: right;">Page 286</p> <p>1 Rogers</p> <p>2 discussed among the Village Board of Trustees</p> <p>3 with respect to the designation of George</p> <p>4 Hesse as Acting Police Chief in January of</p> <p>5 2006? 09:14:48</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 Ms. Rogers, do you recall exactly what</p> <p>8 you testified to during the course of</p> <p>9 this deposition on that subject?</p> <p>10 THE WITNESS: Not word for word, 09:15:00</p> <p>11 no.</p> <p>12 MR. NOVIKOFF: Then I object to</p> <p>13 the foundation of the question. You can</p> <p>14 answer the question.</p> <p>15 A. No, not to my recollection. 09:15:05</p> <p>16 Q. Mayor Rogers, did you review any</p> <p>17 transcript or portion of a transcript of your</p> <p>18 first day of deposition testimony?</p> <p>19 A. I never saw it, no.</p> <p>20 Q. Now, there has been a period of 09:15:22</p> <p>21 time between the first time you were here and</p> <p>22 today. During that interval did you think of</p> <p>23 any testimony that you may have given on your</p> <p>24 first day that was in any way inaccurate?</p> <p>25 MR. NOVIKOFF: Objection. You can 09:15:43</p>

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<p>1 Rogers</p> <p>2 answer.</p> <p>3 A. I don't recall all the things I</p> <p>4 said exactly.</p> <p>5 MR. GRAFF: Mr. Novikoff, if you 09:15:57</p> <p>6 can please give Mayor Rogers the document</p> <p>7 marked as Exhibit 10.</p> <p>8 MR. NOVIKOFF: If there is a</p> <p>9 question that requires her to look at</p> <p>10 Exhibit 10 I will be more than happy to 09:16:09</p> <p>11 give it to her.</p> <p>12 MR. GRAFF: There is.</p> <p>13 MR. NOVIKOFF: So ask the</p> <p>14 question.</p> <p>15 Q. Towards the middle of the document 09:16:17</p> <p>16 there is a column of numbers, there is some</p> <p>17 words next to some of those numbers. Those</p> <p>18 words include increased settlement. My</p> <p>19 question is in the context of this document</p> <p>20 what does that refer to? 09:16:32</p> <p>21 MR. NOVIKOFF: Read the document.</p> <p>22 Read both pages and if you believe that</p> <p>23 based upon reading both pages you can</p> <p>24 accurately answer that question without</p> <p>25 referring to pages 1 through 5, than by 09:16:46</p>	<p>1 Rogers</p> <p>2 A. Yes, I understand.</p> <p>3 Q. Can you explain what that refers</p> <p>4 to?</p> <p>5 A. Exactly what it says. I was a 09:19:35</p> <p>6 trustee at that point, I was not mayor.</p> <p>7 Q. To your understanding does</p> <p>8 increased settlement mean something different</p> <p>9 from increased salary in the context of this</p> <p>10 document? 09:19:56</p> <p>11 A. In this context --</p> <p>12 MR. NOVIKOFF: Objection.</p> <p>13 A. In this context I believe it to be</p> <p>14 the same.</p> <p>15 Q. Do you recall any discussion 09:20:06</p> <p>16 concerning the salary adjustment for Police</p> <p>17 Officer George Hesse at the April 11, 1998</p> <p>18 meeting?</p> <p>19 A. No, I don't recall.</p> <p>20 Q. At the very top of the document, 09:20:30</p> <p>21 counsel, at the very top of the document</p> <p>22 underlined it says NYPIRG request to solicit.</p> <p>23 Do you know what NYPIRG refers to</p> <p>24 in the context of this document?</p> <p>25 MR. NOVIKOFF: Read whatever you 09:20:55</p>
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<p>1 Rogers</p> <p>2 all means answer the question.</p> <p>3 Take your time and read it</p> <p>4 thoroughly to the extent that you need</p> <p>5 to. 09:17:06</p> <p>6 A. What is the question with regard</p> <p>7 to this memo; I read it.</p> <p>8 Q. Mr. Novikoff, do you mind if I</p> <p>9 point the witness to the language that I am</p> <p>10 referring to? 09:19:04</p> <p>11 MR. NOVIKOFF: Sure, go ahead.</p> <p>12 Q. This increased settlement over</p> <p>13 there, do you see that spot?</p> <p>14 A. This; yes.</p> <p>15 MR. NOVIKOFF: Which one, there is 09:19:10</p> <p>16 increased settlement to 7,500, the one --</p> <p>17 MR. GRAFF: I am asking about the</p> <p>18 first one.</p> <p>19 MR. NOVIKOFF: The one that is</p> <p>20 7,500? 09:19:24</p> <p>21 MR. GRAFF: Yes.</p> <p>22 MR. NOVIKOFF: Okay.</p> <p>23 A. Yes.</p> <p>24 Q. Do you understand what that refers</p> <p>25 to? 09:19:32</p>	<p>1 Rogers</p> <p>2 need to to answer the question.</p> <p>3 A. No, I do not.</p> <p>4 Q. Underneath that subheading it</p> <p>5 says: Following discussion Trustee Miller 09:21:12</p> <p>6 moved as follows: Whereas the NYPIRG has</p> <p>7 requested that it be permitted to solicit</p> <p>8 funds door to door in the Incorporated Village</p> <p>9 of Ocean Beach, and whereas the Village code</p> <p>10 in the best interest of the Village requires 09:21:33</p> <p>11 denial of said request, and now therefore it</p> <p>12 is hereby resolved that the request of NYPIRG</p> <p>13 is hereby denied. Trustee Rogers seconded</p> <p>14 this motion. Upon call all present voted aye.</p> <p>15 Do you recall the motion that is 09:21:54</p> <p>16 referred to in the text that I just read?</p> <p>17 A. No.</p> <p>18 Q. To your knowledge was there a</p> <p>19 requirement of obtaining approval of the</p> <p>20 Village Board of Trustees to solicit funds</p> <p>21 door to door in Ocean Beach?</p> <p>22 MR. NOVIKOFF: Objection. You can</p> <p>23 answer.</p> <p>24 A. To my knowledge no.</p> <p>25 THE VIDEOGRAPHER: The time is now</p>

<p style="text-align: right;">Page 291</p> <p>1 Rogers</p> <p>2 9:22 a.m. and we are now off the record.</p> <p>3 (Recess taken.)</p> <p>4 THE VIDEOGRAPHER: This is the</p> <p>5 start of tape number 2, the time is now 09:35:03</p> <p>6 9:35 a.m., we are back on the record.</p> <p>7 MR. NOVIKOFF: Let the record</p> <p>8 reflect that Ms. Rogers was back and</p> <p>9 prepared to proceed at 9:29.</p> <p>10 Q. Mayor Rogers, to your knowledge 09:35:19</p> <p>11 was there any requirement of obtaining</p> <p>12 approval from the Village Board of Trustees to</p> <p>13 solicit funds in Ocean Beach?</p> <p>14 MR. NOVIKOFF: Objection.</p> <p>15 A. To my knowledge, no. 09:35:31</p> <p>16 Q. And after having looked at the</p> <p>17 document and discussing this for a few minutes</p> <p>18 do you have any recollection of this motion</p> <p>19 that is referred to here that you seconded?</p> <p>20 MR. NOVIKOFF: What document, what 09:35:49</p> <p>21 motion, what did you discuss for the last</p> <p>22 few minutes?</p> <p>23 Q. The document, Rogers 10?</p> <p>24 MR. NOVIKOFF: What is the</p> <p>25 question? 09:36:01</p>	<p style="text-align: right;">Page 293</p> <p>1 Rogers</p> <p>2 of Election refers to in the context of this?</p> <p>3 MR. NOVIKOFF: Objection to the</p> <p>4 extent that there is a lot more that</p> <p>5 Trustee Mallott stated according to this 09:37:14</p> <p>6 exhibit, and you have only read the first</p> <p>7 two sentences of it. So what is the</p> <p>8 question?</p> <p>9 Q. The question is if she understands</p> <p>10 what Inspectors of Election refers to in the 09:37:24</p> <p>11 context of the text that I just read?</p> <p>12 A. The answer is yes.</p> <p>13 Q. Can you explain what Inspectors of</p> <p>14 Election refers to?</p> <p>15 A. We have regular elections in Ocean 09:37:35</p> <p>16 Beach, and pursuant to state law we have to</p> <p>17 have inspectors who have people who are</p> <p>18 registered come in, sign in, vote. There is a</p> <p>19 whole procedure for voting. And the Village</p> <p>20 Board of Trustees appoints election inspectors 09:37:57</p> <p>21 each time there is a village election.</p> <p>22 Q. Thank you. The individuals</p> <p>23 indicated after the text that I read who were</p> <p>24 appointed Inspectors of Election include</p> <p>25 Winifred Loeffler, Susan Cafuoco, Sallie 09:38:14</p>
<p style="text-align: right;">Page 292</p> <p>1 Rogers</p> <p>2 Q. Whether as she sits here this</p> <p>3 morning Mayor Rogers has any recollection of</p> <p>4 the motion that is referred to in the top of</p> <p>5 this document on the request to solicit? 09:36:07</p> <p>6 A. No.</p> <p>7 Q. Turning to the second page of the</p> <p>8 document?</p> <p>9 MR. NOVIKOFF: Of the exhibit; the</p> <p>10 document is incomplete. 09:36:22</p> <p>11 MR. GRAFF: Yes.</p> <p>12 Q. Turning to the second page there</p> <p>13 is a subheading, Inspectors of Election, do</p> <p>14 you see what I am referring to?</p> <p>15 A. When I get it. I don't see it. 09:36:33</p> <p>16 MR. NOVIKOFF: Right there.</p> <p>17 A. Yes.</p> <p>18 Q. Trustee Mallott moved -- I am</p> <p>19 going to read that, beginning of the record:</p> <p>20 Trustee Mallott moved as follows: Be it 09:36:44</p> <p>21 resolved by the Board of Trustees of the</p> <p>22 Village of Ocean Beach pursuant to Election</p> <p>23 Law Section 15-116, Sub 1 that the following</p> <p>24 are appointed Inspectors of Election.</p> <p>25 Do you understand what Inspectors 09:37:04</p>	<p style="text-align: right;">Page 294</p> <p>1 Rogers</p> <p>2 Potterton and Harvey Levine.</p> <p>3 Mayor Rogers, do you know who</p> <p>4 Winifred Loeffler is?</p> <p>5 A. Yes. 09:38:26</p> <p>6 Q. And who is she?</p> <p>7 A. She is the mother of Joe Loeffler.</p> <p>8 Alan Loeffler, the wife of the former Police</p> <p>9 Chief Loeffler.</p> <p>10 Q. Do you know who Susan Cafuoco is? 09:38:42</p> <p>11 A. She is a resident of Ocean Beach,</p> <p>12 wife of a contractor, who later became an</p> <p>13 office clerk in Ocean Beach.</p> <p>14 Q. You are referring to her husband</p> <p>15 being a contractor? 09:39:20</p> <p>16 A. Yes.</p> <p>17 Q. Was he a contractor in Ocean</p> <p>18 Beach?</p> <p>19 A. There and some places on the</p> <p>20 mainland, but I don't know where. 09:39:30</p> <p>21 Q. Do you know whether Ms. Cafuoco's</p> <p>22 husband the contractor maintains office on</p> <p>23 Ocean Beach?</p> <p>24 MR. NOVIKOFF: Presently or in</p> <p>25 1998? 09:39:45</p>

<p style="text-align: right;">Page 295</p> <p>1 Rogers</p> <p>2 Q. At the time?</p> <p>3 A. In 1998?</p> <p>4 Q. Yes.</p> <p>5 A. I don't know if he did. 09:39:47</p> <p>6 Q. Do you know if at any time her</p> <p>7 husband the contractor maintained office at</p> <p>8 Ocean Beach?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know what the name of his 09:39:55</p> <p>11 business was?</p> <p>12 A. It was called Brothers</p> <p>13 Construction.</p> <p>14 Q. Ms. Cafuoco's husband's name, do</p> <p>15 you recall what it was? 09:40:05</p> <p>16 MR. NOVIKOFF: As opposed to Mr.</p> <p>17 Cafuoco.</p> <p>18 MR. GRAFF: Yes, maybe it was not</p> <p>19 Cafuoco.</p> <p>20 MR. NOVIKOFF: Okay. 09:40:16</p> <p>21 A. Don Cafuoco.</p> <p>22 Q. Sallie Potterton, do you know who</p> <p>23 that individual is?</p> <p>24 A. Yes.</p> <p>25 Q. Who is Sallie Potterton? 09:40:24</p>	<p style="text-align: right;">Page 297</p> <p>1 Rogers</p> <p>2 MR. NOVIKOFF: Look at whatever</p> <p>3 you need.</p> <p>4 A. Yes.</p> <p>5 Q. Having looked at the document do 09:41:31</p> <p>6 you recall that you seconded this motion?</p> <p>7 A. Yes.</p> <p>8 Q. Do you recall why you seconded the</p> <p>9 motion?</p> <p>10 MR. NOVIKOFF: Objection. 09:41:42</p> <p>11 A. Because they all had been doing</p> <p>12 this before, at least some of them had been</p> <p>13 doing it before and they had experience, they</p> <p>14 were all qualified for the job.</p> <p>15 MR. NOVIKOFF: I would also 09:41:55</p> <p>16 advise -- not advise, just note that</p> <p>17 there was more to this motion than just</p> <p>18 the designation of four individuals as</p> <p>19 Inspectors of Election.</p> <p>20 MR. GRAFF: I understand, in fact 09:42:07</p> <p>21 I referred to there being more and this</p> <p>22 is the second time that you made the same</p> <p>23 reference.</p> <p>24 MR. NOVIKOFF: Thank you.</p> <p>25 Q. The very last line of the document 09:42:15</p>
<p style="text-align: right;">Page 296</p> <p>1 Rogers</p> <p>2 A. A long time resident of Ocean</p> <p>3 Beach and an artist.</p> <p>4 Q. And Harvey Levine?</p> <p>5 A. A resident of Ocean Beach and 09:40:31</p> <p>6 owner of a bed and breakfast.</p> <p>7 Q. Further down after some other text</p> <p>8 going to the substance of the motion it says</p> <p>9 Trustee Rogers seconded this motion. Do you</p> <p>10 recall that you seconded this motion? 09:40:50</p> <p>11 MR. NOVIKOFF: Just without</p> <p>12 looking at the document.</p> <p>13 Q. If you think it would refresh your</p> <p>14 recollection --</p> <p>15 MR. NOVIKOFF: You asked her a 09:41:01</p> <p>16 direct question, does she recall. If the</p> <p>17 answer is no, then the next question</p> <p>18 should be would looking at that document</p> <p>19 refresh your recollection. So answer the</p> <p>20 first question, do you recall seconding 09:41:12</p> <p>21 the motion?</p> <p>22 A. No.</p> <p>23 Q. Would looking at the document</p> <p>24 refresh your recollection?</p> <p>25 A. Yes. 09:41:18</p>	<p style="text-align: right;">Page 298</p> <p>1 Rogers</p> <p>2 indicates that Acting Mayor Wingate voted</p> <p>3 against the motion. Do you recall whether</p> <p>4 Acting Mayor Wingate voted against the motion?</p> <p>5 A. No. 09:42:27</p> <p>6 Q. Would it refresh your recollection</p> <p>7 to look at the document?</p> <p>8 A. Yes.</p> <p>9 Q. If you could please take a look at</p> <p>10 that document? 09:42:33</p> <p>11 A. Yes.</p> <p>12 Q. Having looked at the document do</p> <p>13 you recall whether Acting Mayor Wingate voted</p> <p>14 against the motion?</p> <p>15 MR. NOVIKOFF: The question is 09:42:40</p> <p>16 without looking at this document do you</p> <p>17 recall?</p> <p>18 THE WITNESS: I answered that no</p> <p>19 already.</p> <p>20 MR. NOVIKOFF: But now without 09:42:46</p> <p>21 looking at this document do you have an</p> <p>22 independent recollection?</p> <p>23 Q. Having just looked at the</p> <p>24 document?</p> <p>25 MR. NOVIKOFF: Does that refresh 09:42:54</p>

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<p>1 Rogers</p> <p>2 your recollection --</p> <p>3 THE WITNESS: Yes, it does.</p> <p>4 MR. NOVIKOFF: Got it.</p> <p>5 A. The answer is yes. 09:43:00</p> <p>6 Q. Do you recall why Acting Mayor</p> <p>7 Wingate voted against the motion?</p> <p>8 A. Yes.</p> <p>9 Q. Why did Acting Mayor Wingate vote</p> <p>10 against the motion? 09:43:16</p> <p>11 A. He was opposed to one or more of</p> <p>12 the people.</p> <p>13 Q. Do you recall whether he was</p> <p>14 opposed to -- strike that.</p> <p>15 Do you recall which people he was 09:43:42</p> <p>16 opposed to?</p> <p>17 A. No.</p> <p>18 Q. Do you recall any one person who</p> <p>19 he was opposed to?</p> <p>20 A. No. 09:43:56</p> <p>21 Q. Do you recall whether Acting Mayor</p> <p>22 Wingate expressed any reason for his</p> <p>23 opposition to one or more people?</p> <p>24 A. No.</p> <p>25 Q. I believe when you were last here 09:44:24</p>	<p>1 Rogers</p> <p>2 Q. Approximately when was it founded?</p> <p>3 MR. NOVIKOFF: Objection.</p> <p>4 A. Approximately 1990.</p> <p>5 Q. Do you know who founded the Unity 09:45:38</p> <p>6 Party?</p> <p>7 A. No one person.</p> <p>8 Q. Do you recall whether there was</p> <p>9 any sort of nomination process in connection</p> <p>10 with your candidacy on the slate of the Unity 09:46:01</p> <p>11 Party?</p> <p>12 A. Yes.</p> <p>13 Q. Can you explain what that process</p> <p>14 involved?</p> <p>15 A. You had to get nominating 09:46:13</p> <p>16 petitions signed, I believe the certain</p> <p>17 minimum -- I know a certain minimum number was</p> <p>18 required. Signatures of registered voters in</p> <p>19 the Incorporated Village of Ocean Beach.</p> <p>20 Q. Do you recall whether there was 09:46:32</p> <p>21 any leader, head of the Unity Party at the</p> <p>22 time that you ran as the candidate for the</p> <p>23 Unity Party in connection with any of your</p> <p>24 elections to office for Ocean Beach?</p> <p>25 MR. NOVIKOFF: Objection. 09:46:47</p>
Page 300	Page 302
<p>1 Rogers</p> <p>2 you indicated that you were a candidate for</p> <p>3 the Unitary Party when you ran for election of</p> <p>4 in Ocean Beach.</p> <p>5 MR. NOVIKOFF: Hold on. He asked 09:44:37</p> <p>6 the question. As the question is formed</p> <p>7 I am going to object as asked and</p> <p>8 answered. You can answer the question.</p> <p>9 A. I can only answer the question by</p> <p>10 telling you the name of the party is Unity 09:44:50</p> <p>11 Party.</p> <p>12 MR. NOVIKOFF: Fine.</p> <p>13 Q. Thank you for that clarification.</p> <p>14 A. U-N-I-T-Y.</p> <p>15 Q. Were you a candidate for the Unity 09:44:59</p> <p>16 Party in connection with all of your campaigns</p> <p>17 for election at Ocean Beach?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know when the Unity Party</p> <p>20 was founded? 09:45:11</p> <p>21 A. Approximately -- I won't say</p> <p>22 approximately.</p> <p>23 MR. NOVIKOFF: The question is do</p> <p>24 you know.</p> <p>25 A. Yes. I know approximately. 09:45:30</p>	<p>1 Rogers</p> <p>2 A. Yes.</p> <p>3 Q. Who was the head of the Unity</p> <p>4 Party?</p> <p>5 A. A person named Alan Kahn, K-A-H-N. 09:47:04</p> <p>6 Q. Do you recall whether current</p> <p>7 Mayor Loeffler was ever a candidate for the</p> <p>8 Unity Party?</p> <p>9 MR. NOVIKOFF: Objection.</p> <p>10 Q. Running on the slate of the Unity 09:47:19</p> <p>11 Party or on the platform of the Unity Party?</p> <p>12 MR. NOVIKOFF: Objection.</p> <p>13 A. Do I recall; yes, I do recall.</p> <p>14 Q. Was he or did he?</p> <p>15 A. No. 09:47:28</p> <p>16 Q. Do you recall whether Trustee</p> <p>17 Miller ever ran on the platform or slate of</p> <p>18 the Unity Party?</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 A. Yes. 09:47:37</p> <p>21 Q. Yes, he did?</p> <p>22 A. Yes, he did.</p> <p>23 Q. Do you recall who defeated Trustee</p> <p>24 Miller in his final campaign for election to</p> <p>25 the position of trustee? 09:47:49</p>

16 (Pages 299 to 302)

<p style="text-align: right;">Page 303</p> <p>1 Rogers</p> <p>2 A. Trustee Steven Einig, E-I-N-I-G.</p> <p>3 Q. In your first campaign for</p> <p>4 election for the position of mayor of Ocean</p> <p>5 Beach do you recall who if anyone else was a 09:48:12</p> <p>6 candidate on the platform of the Unity Party?</p> <p>7 MR. NOVIKOFF: Objection to the</p> <p>8 form. You can answer.</p> <p>9 A. Yes.</p> <p>10 Q. Can you identify those persons? 09:48:25</p> <p>11 A. Trustee James Mallott, Trustee</p> <p>12 Andrew Miller, and myself.</p> <p>13 Q. And in your second campaign for</p> <p>14 this time reelection to mayor do you recall</p> <p>15 who if anyone was a candidate on the platform 09:49:01</p> <p>16 of the Unity Party?</p> <p>17 MR. NOVIKOFF: Objection.</p> <p>18 A. Yes, I recall.</p> <p>19 Q. Can you identify that person or</p> <p>20 those persons? 09:49:09</p> <p>21 A. Trustee Mallott, Trustee Miller,</p> <p>22 and myself for mayor.</p> <p>23 Q. Other than yourself and Trustee</p> <p>24 Miller was there anybody else who served in</p> <p>25 the capacity of Police Commissioner of Ocean 09:49:23</p> <p style="text-align: right;">Page 304</p> <p>1 Rogers</p> <p>2 Beach during your service as a trustee or</p> <p>3 mayor of Ocean Beach?</p> <p>4 MR. NOVIKOFF: Objection to the</p> <p>5 form. 09:49:37</p> <p>6 A. During the time that I was a</p> <p>7 trustee; not to my recollection.</p> <p>8 Q. To your recollection was Trustee</p> <p>9 Miller a Police Commissioner at the time that</p> <p>10 you were first elected as trustee of Ocean 09:49:51</p> <p>11 Beach?</p> <p>12 MR. NOVIKOFF: Objection.</p> <p>13 A. Yes, he was.</p> <p>14 Q. Do you recall or do you have any</p> <p>15 information concerning how Trustee Miller came 09:50:02</p> <p>16 to serve in the position as Police</p> <p>17 Commissioner of Ocean Beach?</p> <p>18 A. Yes, I do.</p> <p>19 Q. Could you explain what information</p> <p>20 you have on that topic? 09:50:17</p> <p>21 A. When I became mayor I appointed</p> <p>22 him as the Police Commissioner.</p> <p>23 Q. Why did you select Trustee Miller</p> <p>24 as Police Commissioner when you became mayor?</p> <p>25 A. He had very good background and 09:50:28</p>	<p style="text-align: right;">Page 305</p> <p>1 Rogers</p> <p>2 credentials.</p> <p>3 Q. Did you at that time consider</p> <p>4 anyone else for appointment to the position of</p> <p>5 Police Commissioner? 09:50:39</p> <p>6 A. No, I did not.</p> <p>7 Q. To your knowledge does current</p> <p>8 Mayor Loeffler have any prior law or any law</p> <p>9 enforcement experience?</p> <p>10 MR. NOVIKOFF: Note my objection 09:50:56</p> <p>11 to the beginning of the question. You</p> <p>12 can answer.</p> <p>13 Q. Let me rephrase that again.</p> <p>14 Do you have any information</p> <p>15 concerning whether Trustee Loeffler has any 09:51:03</p> <p>16 law enforcement experience; excuse me, current</p> <p>17 Mayor Loeffler?</p> <p>18 A. Yes.</p> <p>19 Q. What information do you have with</p> <p>20 respect to that issue? 09:51:15</p> <p>21 A. I believe -- scrap the I believe.</p> <p>22 He was in Suffolk County, in</p> <p>23 Suffolk County law enforcement as a detective.</p> <p>24 Q. Is there any other law enforcement</p> <p>25 experience that you are aware of? 09:51:31</p> <p style="text-align: right;">Page 306</p> <p>1 Rogers</p> <p>2 A. I don't know.</p> <p>3 Q. What was the law enforcement</p> <p>4 experience if any that Trustee Miller had at</p> <p>5 the time that you appointed him? 09:51:41</p> <p>6 MR. NOVIKOFF: Objection. To the</p> <p>7 extent that you know or have information.</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you recall whether he had any</p> <p>10 law enforcement experience at that time? 09:51:55</p> <p>11 A. He was not a police officer.</p> <p>12 Q. What specifically did you consider</p> <p>13 to be relevant qualifications that Trustee</p> <p>14 Miller possessed at the time that you</p> <p>15 appointed him as Police Commissioner? 09:52:21</p> <p>16 A. Oversight.</p> <p>17 Q. Oversight with respect to what?</p> <p>18 A. Police matters.</p> <p>19 Q. Did he have prior experience with</p> <p>20 oversight with respect to police matters? 09:52:32</p> <p>21 A. I believe so.</p> <p>22 Q. Could you expand on that at all?</p> <p>23 A. No, I don't recall the details.</p> <p>24 Q. When Trustee Miller was defeated</p> <p>25 in his campaign for reelection to the position 09:52:51</p>
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<p style="text-align: right;">Page 307</p> <p>1 Rogers</p> <p>2 of trustee at Ocean Beach were you the next</p> <p>3 person to serve as Police Commissioner of</p> <p>4 Ocean Beach?</p> <p>5 A. Yes. 09:53:00</p> <p>6 Q. How were you selected to serve as</p> <p>7 Police Commissioner of Ocean Beach?</p> <p>8 A. I made a determination myself.</p> <p>9 Q. Did anybody else need to approve</p> <p>10 your selection to serve in that position? 09:53:16</p> <p>11 MR. NOVIKOFF: Objection. You can</p> <p>12 answer.</p> <p>13 A. The board approved it.</p> <p>14 Q. Was that by motion?</p> <p>15 A. I don't recall. 09:53:30</p> <p>16 Q. Did you have -- strike that.</p> <p>17 I believe that when you were last</p> <p>18 here you testified that at the time that you</p> <p>19 appointed yourself as Police Commissioner you</p> <p>20 had no prior law enforcement experience; is 09:53:44</p> <p>21 that correct?</p> <p>22 MR. NOVIKOFF: Objection to the</p> <p>23 form of the question. On its face it was</p> <p>24 asked and answered. You can answer the</p> <p>25 question. 09:53:52</p>	<p style="text-align: right;">Page 309</p> <p>1 Rogers</p> <p>2 A. I don't know.</p> <p>3 Q. I am sorry, did you say that you</p> <p>4 don't know or no is the answer?</p> <p>5 A. The answer is no. 09:55:01</p> <p>6 Q. Did you believe that you</p> <p>7 understood why he didn't want the position?</p> <p>8 MR. NOVIKOFF: Objection.</p> <p>9 A. Yes, I understood it.</p> <p>10 Q. What did you believe the basis for 09:55:16</p> <p>11 his not wanting the position was at that time?</p> <p>12 A. I thought he might be concerned</p> <p>13 about a possible conflict which he did not</p> <p>14 want.</p> <p>15 Q. What conflict, possible conflict 09:55:30</p> <p>16 are you referring to?</p> <p>17 A. I don't know. That was my</p> <p>18 perception.</p> <p>19 Q. Do you have any information</p> <p>20 concerning the possible conflict that you just 09:55:46</p> <p>21 referred to?</p> <p>22 A. No.</p> <p>23 Q. Can you identify any basis at all</p> <p>24 for believing that he was concerned about a</p> <p>25 possible conflict? 09:55:57</p>
<p style="text-align: right;">Page 308</p> <p>1 Rogers</p> <p>2 A. Except having been on the board as</p> <p>3 a trustee and a prior mayor.</p> <p>4 Q. Was Mayor Loeffler a trustee at</p> <p>5 the time that you appointed yourself as Police 09:54:10</p> <p>6 Commissioner?</p> <p>7 A. Yes.</p> <p>8 Q. Other than Mayor Loeffler did any</p> <p>9 of the other trustees at that time have prior</p> <p>10 law enforcement experience that you are aware 09:54:22</p> <p>11 of?</p> <p>12 A. I was aware of none.</p> <p>13 Q. Did you consider appointing</p> <p>14 Trustee Loeffler to the position of Police</p> <p>15 Commissioner at that time? 09:54:32</p> <p>16 A. I did.</p> <p>17 Q. Why did you decide ultimately not</p> <p>18 to appoint him to that position?</p> <p>19 A. He indicated to me that he did not</p> <p>20 want the position. 09:54:42</p> <p>21 Q. Did he explain why he didn't want</p> <p>22 that position to you?</p> <p>23 A. He said he didn't want it.</p> <p>24 Q. Did you ask him why he didn't want</p> <p>25 it? 09:54:55</p>	<p style="text-align: right;">Page 310</p> <p>1 Rogers</p> <p>2 A. He told me he didn't want it.</p> <p>3 Everything else was my understanding.</p> <p>4 Q. To your understanding other than</p> <p>5 possible conflict was there any more to your 09:56:12</p> <p>6 understanding of that issue?</p> <p>7 A. No.</p> <p>8 MR. NOVIKOFF: Objection to the</p> <p>9 form. You can answer.</p> <p>10 A. Not that I know of. 09:56:21</p> <p>11 Q. Did you discuss with Trustee</p> <p>12 Loeffler whether it would be appropriate for</p> <p>13 you to designate yourself as Police</p> <p>14 Commissioner?</p> <p>15 A. Yes. 09:56:29</p> <p>16 Q. Did he express any opinion on that</p> <p>17 issue?</p> <p>18 A. He agreed.</p> <p>19 Q. He agreed that --</p> <p>20 A. That it would be appropriate. 09:56:43</p> <p>21 Q. Did he explain why he thought it</p> <p>22 would be appropriate?</p> <p>23 MR. NOVIKOFF: Yes or no.</p> <p>24 A. Yes.</p> <p>25 Q. What did he explain? 09:56:55</p>

<p style="text-align: right;">Page 311</p> <p>1 Rogers</p> <p>2 A. I have been mayor for the last</p> <p>3 four years. I have been a trustee for seven</p> <p>4 years prior to that. I had Ocean Beach</p> <p>5 background that was extensive. 09:57:04</p> <p>6 Q. At the time that you offered</p> <p>7 Trustee Loeffler the position of Police</p> <p>8 Commissioner did you indicate to him that you</p> <p>9 were also considering yourself for that</p> <p>10 position? 09:57:24</p> <p>11 MR. NOVIKOFF: Objection to the</p> <p>12 form. I don't know if she ever said she</p> <p>13 offered him the position, but you can</p> <p>14 answer.</p> <p>15 A. No. 09:57:32</p> <p>16 Q. Was it only after Trustee Loeffler</p> <p>17 indicated to you that he did not want the</p> <p>18 position that you first raised the possibility</p> <p>19 with him of appointing yourself to that</p> <p>20 position? 09:57:43</p> <p>21 A. To the best of my recollection,</p> <p>22 yes.</p> <p>23 Q. Do you recall whether any of the</p> <p>24 other trustees expressed any opinion as to</p> <p>25 whether it would be appropriate for you to 09:57:54</p>	<p style="text-align: right;">Page 313</p> <p>1 Rogers</p> <p>2 A. I believe so.</p> <p>3 Q. Who else expressed an interest?</p> <p>4 A. Trustee Einig.</p> <p>5 Q. Were you aware of any prior law 09:59:14</p> <p>6 enforcement experience that Trustee Einig</p> <p>7 possessed at that time?</p> <p>8 A. No. No, I was not aware.</p> <p>9 Q. Did you have any discussions with</p> <p>10 Trustee Einig concerning his interest in being 09:59:34</p> <p>11 appointed as Police Commissioner at that time?</p> <p>12 A. No.</p> <p>13 Q. Did you have any discussions with</p> <p>14 anyone concerning Trustee Einig's interest in</p> <p>15 being appointed as Police Commissioner at that 09:59:46</p> <p>16 time?</p> <p>17 A. No.</p> <p>18 Q. Does that mean you had no</p> <p>19 conversations with Trustee Loeffler?</p> <p>20 MR. NOVIKOFF: Is that a question 10:00:06</p> <p>21 or statement; you asked the question, she</p> <p>22 said no. So what is the question?</p> <p>23 Q. Did you have any conversations</p> <p>24 with Trustee Loeffler concerning Trustee</p> <p>25 Einig's interest in serving as Police 10:00:19</p>
<p style="text-align: right;">Page 312</p> <p>1 Rogers</p> <p>2 appoint yourself to the position of Police</p> <p>3 Commissioner at that time?</p> <p>4 MR. NOVIKOFF: At what time?</p> <p>5 MR. GRAFF: The time that she 09:58:01</p> <p>6 appointed herself to the --</p> <p>7 MR. NOVIKOFF: There is two time</p> <p>8 periods. One when the board voted and</p> <p>9 approved it, and then the time when you</p> <p>10 said she has a conversation with Loeffler 09:58:12</p> <p>11 about it. So I object to form. Are you</p> <p>12 referring to during the meeting when they</p> <p>13 approved it or at any point in time?</p> <p>14 Q. At any point in time?</p> <p>15 MR. NOVIKOFF: Objection to the 09:58:21</p> <p>16 form. You can answer the question.</p> <p>17 A. The question was did anybody else</p> <p>18 have any interest in being -- in taking that</p> <p>19 position, is that the question?</p> <p>20 Q. That actually wasn't. But let me 09:58:40</p> <p>21 ask that question.</p> <p>22 A. Rephrase it, please.</p> <p>23 Q. Did anybody else express an</p> <p>24 interest in succeeding Trustee Miller as</p> <p>25 Police Commissioner of Ocean Beach? 09:58:51</p>	<p style="text-align: right;">Page 314</p> <p>1 Rogers</p> <p>2 Commissioner?</p> <p>3 A. Yes.</p> <p>4 Q. A moment ago --</p> <p>5 A. I said yes. 10:00:33</p> <p>6 Q. A moment ago when I asked if you</p> <p>7 had any conversations with anyone concerning</p> <p>8 Trustee Einig's interest in serving as Police</p> <p>9 Commissioner you responded no.</p> <p>10 MR. NOVIKOFF: Objection to the 10:00:46</p> <p>11 form, the testimony is what it is. Do</p> <p>12 you have a question?</p> <p>13 A. Go ahead.</p> <p>14 Q. Are you correcting that testimony?</p> <p>15 MR. NOVIKOFF: Hold on. Is that 10:00:58</p> <p>16 the question, are you correcting that</p> <p>17 testimony?</p> <p>18 MR. GRAFF: No, if you would let</p> <p>19 me ask the question.</p> <p>20 Q. Are you correcting that testimony 10:01:05</p> <p>21 with respect to your indication that you did</p> <p>22 have conversations with Trustee Loeffler?</p> <p>23 MR. NOVIKOFF: Objection to the</p> <p>24 form. Her testimony is what her</p> <p>25 testimony is. She is also entitled under 10:01:14</p>

<p style="text-align: right;">Page 315</p> <p>1 Rogers</p> <p>2 the Federal rules after the deposition to</p> <p>3 review her transcript and make any</p> <p>4 corrections. Subject to those objections</p> <p>5 you can answer the question. 10:01:24</p> <p>6 A. Yes.</p> <p>7 Q. What conversations did you have</p> <p>8 with Trustee Loeffler concerning that issue?</p> <p>9 A. Very brief. Neither one of us</p> <p>10 felt that it was the proper and appropriate 10:01:45</p> <p>11 designation.</p> <p>12 Q. Do you recall why you believed</p> <p>13 that it was not the appropriate designation?</p> <p>14 MR. NOVIKOFF: Why specifically</p> <p>15 Ms. Rogers believed? 10:02:04</p> <p>16 MR. GRAFF: Yes.</p> <p>17 MR. NOVIKOFF: You can answer.</p> <p>18 A. Trustee Einig has a fairly</p> <p>19 volatile temperament that was not deemed to be</p> <p>20 in accordance with what I considered 10:02:22</p> <p>21 appropriate.</p> <p>22 Q. Other than Trustee Einig's</p> <p>23 temperament were there any other reasons why</p> <p>24 you thought it would not be appropriate to</p> <p>25 appoint him as Police Commissioner at that 10:02:37</p> <p style="text-align: right;">Page 316</p> <p>1 Rogers</p> <p>2 time?</p> <p>3 A. Not that I recall.</p> <p>4 Q. Do you recall whether Trustee</p> <p>5 Loeffler expressed any explanation for why he 10:02:43</p> <p>6 did not believe that Trustee Einig should be</p> <p>7 appointed as Police Commissioner at that time?</p> <p>8 A. My only recollection is that he</p> <p>9 agreed with me.</p> <p>10 Q. Would it be fair to characterize 10:02:58</p> <p>11 Trustee Einig as a political opponent of yours</p> <p>12 during your service as mayor of Ocean Beach?</p> <p>13 MR. NOVIKOFF: Objection. You can</p> <p>14 answer.</p> <p>15 A. Yes. 10:03:10</p> <p>16 Q. Other than Trustee Einig's</p> <p>17 temperament are there any other factors that</p> <p>18 bear on your characterization of him as a</p> <p>19 political opponent?</p> <p>20 MR. NOVIKOFF: Objection to the 10:03:28</p> <p>21 form of the question.</p> <p>22 Wait a minute, the question is</p> <p>23 other than his temperament was there</p> <p>24 anything that bore on her</p> <p>25 characterization of him being a political 10:03:37</p>	<p style="text-align: right;">Page 317</p> <p>1 Rogers</p> <p>2 own component. Counsel, his testimony</p> <p>3 has nothing to do with her</p> <p>4 characterization.</p> <p>5 Your question was would it be fair 10:03:46</p> <p>6 to characterize Trustee Einig as a</p> <p>7 political opponent?</p> <p>8 THE WITNESS: I said yes.</p> <p>9 MR. NOVIKOFF: There was nothing</p> <p>10 about his temperament that bore on the 10:03:56</p> <p>11 question of being a political opponent.</p> <p>12 So I object to the form of the question.</p> <p>13 If you can possibly answer it go ahead.</p> <p>14 MR. GRAFF: Let me strike that.</p> <p>15 MR. NOVIKOFF: Okay. 10:04:05</p> <p>16 Q. Why would you agree that it is</p> <p>17 fair to characterize Trustee Einig as a</p> <p>18 political opponent of yours during your</p> <p>19 service as mayor of Ocean Beach?</p> <p>20 A. His opinion on many issues was 10:04:19</p> <p>21 very different and in some cases contrary to</p> <p>22 mine.</p> <p>23 Q. Do you recall whether any of the</p> <p>24 issues that you referring to related to the</p> <p>25 Ocean Beach Police Department? 10:04:31</p> <p style="text-align: right;">Page 318</p> <p>1 Rogers</p> <p>2 A. No, I do not.</p> <p>3 Q. Do you recall whether any of the</p> <p>4 issues you are referring to related to</p> <p>5 employees at Ocean Beach? 10:04:42</p> <p>6 MR. NOVIKOFF: Outside of the</p> <p>7 Police Department?</p> <p>8 MR. GRAFF: Yes.</p> <p>9 MR. NOVIKOFF: Okay, you can</p> <p>10 answer. 10:04:48</p> <p>11 A. No, I do not.</p> <p>12 Q. Do you recall any of the specific</p> <p>13 issues that you are referring to?</p> <p>14 MR. NOVIKOFF: I think you are</p> <p>15 bordering on harassing because this issue 10:04:56</p> <p>16 is irrelevant, but you can answer the</p> <p>17 question.</p> <p>18 A. Zoning, building, street cleaning,</p> <p>19 noise, ferry schedules, to name a few.</p> <p>20 MR. NOVIKOFF: Would you like to 10:05:24</p> <p>21 leave a space in the transcript and if</p> <p>22 there are more issues that Ms. Rogers can</p> <p>23 recall?</p> <p>24 I guess not.</p> <p>25 MR. GRAFF: Sure. Leave a space 10:05:38</p>
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1 Rogers
2 in the transcript if you would like to
3 fill in some other issues.
4 TO BE FURNISHED _____
5 _____ 10:05:44
6 **Q. Do you recall whether Trustee**
7 **Einig ever expressed any views with respect to**
8 **the operation of the Ocean Beach Police**
9 **Department?**
10 MR. NOVIKOFF: While Mayor Rogers 10:05:51
11 was mayor?
12 MR. GRAFF: I am asking ever that
13 she can recall.
14 MR. NOVIKOFF: Go ahead.
15 Objection to the form. You can answer 10:06:01
16 the question.
17 A. Yes.
18 **Q. What views do you recall Trustee**
19 **Einig expressing on that issue?**
20 A. Enforcement. Enforcement of laws. 10:06:15
21 **Q. What aspect of enforcement of laws**
22 **did he express a view on?**
23 A. Noise, bicycle riding, eating on
24 the streets.
25 **Q. What view did he express with 10:06:48**

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1 **Rogers**
2 **respect to enforcement of laws in those areas?**
3 MR. NOVIKOFF: Objection to the
4 form. If you want to break it down then
5 I won't object. But Mayor Rogers refers 10:07:02
6 to a number of different topics, so I
7 object to the form of the question. You
8 can answer.
9 A. In general I believe he was
10 looking for stricter enforcement. 10:07:11
11 **Q. And did you share his view with**
12 **respect to that issue?**
13 MR. NOVIKOFF: Objection.
14 A. Not in the form it was given.
15 **Q. In what form was his view on those 10:07:27**
16 **issues given?**
17 MR. NOVIKOFF: Objection to the
18 form. You can answer if you can.
19 A. I can't answer that.
20 **Q. Did Trustee Einig express his 10:07:51**
21 **views on those issues prior to your**
22 **appointment as Police Commissioner?**
23 A. I don't believe so.
24 **Q. Did he express those views during**
25 **your service as Police Commissioner? 10:08:08**

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1 **Rogers**
2 A. Yes.
3 **Q. Do you believe that there was any**
4 **merit to Trustee Einig's view that stricter**
5 **enforcement in those areas would be** **10:08:28**
6 **appropriate or beneficial?**
7 MR. NOVIKOFF: Any merit, even
8 like a scintilla of merit; okay, I am
9 going to object. That is a pretty broad
10 question. 10:08:43
11 A. A scintilla of merit.
12 **Q. Did you believe that enforcement**
13 **with respect to those issues was being**
14 **conducted appropriately during your service as**
15 **Police Commissioner?** **10:08:57**
16 MR. NOVIKOFF: Objection to the
17 form. You can answer.
18 A. Not a hundred percent, no.
19 **Q. How would you characterize the**
20 **scintilla or the basis for the scintilla of** **10:09:18**
21 **merit that you saw in Trustee Einig's views**
22 **with respect to those issues during your**
23 **service as Police Commissioner?**
24 MR. NOVIKOFF: That is an
25 unrelated compound question. I object to 10:09:39

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<p>1 Rogers</p> <p>2 attorney/client privilege, but in light</p> <p>3 of Judge Boyle's ruling you have to</p> <p>4 answer the question.</p> <p>5 A. No. I do not recall. 10:11:20</p> <p>6 Q. Do you recall anything that was</p> <p>7 discussed in executive session concerning</p> <p>8 Trustee Einig's views with respect to the</p> <p>9 strictness of the enforcement of laws on Ocean</p> <p>10 Beach? 10:11:35</p> <p>11 MR. NOVIKOFF: Same objection.</p> <p>12 A. No, I don't recall.</p> <p>13 Q. Do you recall that when you were</p> <p>14 last here we spoke about an incident involving</p> <p>15 an injury to a person who was drunk and 10:12:00</p> <p>16 arrested by Ocean Beach police officers?</p> <p>17 MR. NOVIKOFF: Don't answer yet.</p> <p>18 Objection. If you have something in the</p> <p>19 transcript that you want to refer her to,</p> <p>20 please do so. Otherwise it has been 10:12:20</p> <p>21 asked and answered. You may answer the</p> <p>22 question.</p> <p>23 A. Yes, I recall.</p> <p>24 Q. Other than that incident are you</p> <p>25 aware of any other incidents wherein any 10:12:29</p>	<p>1 Rogers</p> <p>2 Q. That is did you first hear about</p> <p>3 it from George Hesse?</p> <p>4 A. No.</p> <p>5 MR. NOVIKOFF: Objection. Asked 10:13:37</p> <p>6 and answered.</p> <p>7 Q. Upon hearing about it from someone</p> <p>8 else did you inquire about the incident of</p> <p>9 George Hesse?</p> <p>10 MR. NOVIKOFF: To the extent it is 10:13:47</p> <p>11 already in her testimony, asked and</p> <p>12 answered.</p> <p>13 A. Yes.</p> <p>14 Q. What did George Hesse say to you</p> <p>15 about that incident? 10:13:55</p> <p>16 MR. NOVIKOFF: Asked and answered.</p> <p>17 You can answer again.</p> <p>18 A. He told me that the individual who</p> <p>19 was injured had been in a bar, I believe it</p> <p>20 was CJ's, had too much to drink, was 10:14:14</p> <p>21 exceedingly intoxicated. And I don't know if</p> <p>22 I remember how he got into the police station,</p> <p>23 I don't believe I remember that at all. And</p> <p>24 then certain matters occurred whereby he ended</p> <p>25 up falling down, a clock fell on him. 10:14:39</p>
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<p>1 Rogers</p> <p>2 person sustained injuries at the hands of</p> <p>3 Ocean Beach police officers?</p> <p>4 MR. NOVIKOFF: Objection. You can</p> <p>5 answer the question. 10:12:43</p> <p>6 A. Not that I recall.</p> <p>7 Q. How did you come to learn of the</p> <p>8 incident that you do recall?</p> <p>9 A. I believe I told you and still</p> <p>10 tell you, I heard it on the street. 10:12:58</p> <p>11 Q. Do you recall who told you on the</p> <p>12 street?</p> <p>13 A. No.</p> <p>14 Q. Do you recall whether you heard it</p> <p>15 on the street when it was daylight? 10:13:08</p> <p>16 MR. NOVIKOFF: Objection. Asked</p> <p>17 and answered. This is apparently in her</p> <p>18 transcript already from at least my</p> <p>19 review of it, but you can answer the</p> <p>20 question again. 10:13:19</p> <p>21 A. I believe it was daylight.</p> <p>22 Q. Did you hear about it from George</p> <p>23 Hesse?</p> <p>24 MR. NOVIKOFF: Objection. Asked</p> <p>25 and answered. You can answer again. 10:13:31</p>	<p>1 Rogers</p> <p>2 He left the police station, banged</p> <p>3 on the door and got back in, and was</p> <p>4 subsequently restrained. That is about it.</p> <p>5 Q. Did you have more than one such 10:15:05</p> <p>6 conversation with George Hesse about that</p> <p>7 incident?</p> <p>8 A. I don't remember.</p> <p>9 Q. Do you recall what information you</p> <p>10 had about that incident at the time that you 10:15:15</p> <p>11 spoke with George Hesse about the incident;</p> <p>12 that is information independent of what George</p> <p>13 Hesse said to you?</p> <p>14 MR. NOVIKOFF: Objection. Asked</p> <p>15 and answered. You can answer. 10:15:26</p> <p>16 A. Other people told me that that was</p> <p>17 essentially correct and that there were a</p> <p>18 number of people in the bar who had observed</p> <p>19 the behavior of the person who was injured.</p> <p>20 Q. Did they observe his behavior -- 10:15:50</p> <p>21 did they advise you that they had observed his</p> <p>22 behavior prior to the time that the individual</p> <p>23 sustained his injuries?</p> <p>24 A. I don't know, I didn't question</p> <p>25 the people. 10:16:07</p>

<p style="text-align: right;">Page 327</p> <p>1 Rogers</p> <p>2 Q. Did you have any information</p> <p>3 before your conversation with George Hesse</p> <p>4 concerning the nature of the injuries</p> <p>5 sustained by that individual? 10:16:18</p> <p>6 A. No.</p> <p>7 Q. In your conversation with George</p> <p>8 Hesse did you discuss anything with respect to</p> <p>9 the nature of the injuries sustained by that</p> <p>10 individual? 10:16:34</p> <p>11 A. I don't believe I was aware of the</p> <p>12 nature of the injuries at the time that I</p> <p>13 talked to George Hesse.</p> <p>14 Q. Other than in conversations with</p> <p>15 counsel did you at some point learn of the 10:16:45</p> <p>16 nature of the injuries sustained by that</p> <p>17 individual?</p> <p>18 A. Yes.</p> <p>19 Q. And what did you learn of the</p> <p>20 nature of those injuries? 10:16:58</p> <p>21 A. That there was a ruptured --</p> <p>22 allegedly a ruptured spleen.</p> <p>23 Q. How did you learn of the</p> <p>24 allegation of a ruptured spleen?</p> <p>25 A. I think I read it in the paper. 10:17:15</p>	<p style="text-align: right;">Page 329</p> <p>1 Rogers</p> <p>2 Q. When George Hesse told you</p> <p>3 something about a clock falling down in</p> <p>4 connection with this incident was it your</p> <p>5 understanding that the individual sustained 10:18:55</p> <p>6 his injuries as a result of being struck by</p> <p>7 the falling clock?</p> <p>8 MR. NOVIKOFF: Objection.</p> <p>9 A. Not directly.</p> <p>10 Q. What if anything was your 10:19:04</p> <p>11 understanding of how that individual came to</p> <p>12 sustain his injuries?</p> <p>13 A. I didn't know.</p> <p>14 Q. Did you ask George Hesse when you</p> <p>15 spoke with him about this issue how the 10:19:20</p> <p>16 individual in question came to sustain his</p> <p>17 injuries?</p> <p>18 MR. NOVIKOFF: Objection.</p> <p>19 Foundation.</p> <p>20 A. No, because -- 10:19:27</p> <p>21 MR. NOVIKOFF: The answer is no.</p> <p>22 Q. Why didn't you ask George Hesse</p> <p>23 about that at that time?</p> <p>24 MR. NOVIKOFF: Objection. I don't</p> <p>25 think you established any foundation that 10:19:34</p>
<p style="text-align: right;">Page 328</p> <p>1 Rogers</p> <p>2 Q. After reading that in the</p> <p>3 paragraph did you have any further</p> <p>4 conversations with George Hesse with respect</p> <p>5 to that incident? 10:17:39</p> <p>6 A. No.</p> <p>7 Q. Outside of the presence of counsel</p> <p>8 did you have any conversations with anyone</p> <p>9 with respect to that incident after learning</p> <p>10 of the nature of the injuries in the paper? 10:17:56</p> <p>11 A. On advice of counsel --</p> <p>12 MR. NOVIKOFF: Outside the</p> <p>13 presence of counsel.</p> <p>14 A. Of counsel, no.</p> <p>15 Q. Was the extent of the injuries 10:18:08</p> <p>16 that you read in the paper consistent in your</p> <p>17 mind with the statements about the incident</p> <p>18 that George Hesse had previously made to you?</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 MR. NOVIKOFF: I join in. I think 10:18:27</p> <p>21 you have a foundation problem with the</p> <p>22 question. But you can answer the</p> <p>23 question.</p> <p>24 A. Consistent; I really didn't</p> <p>25 evaluate it, or try to. 10:18:44</p>	<p style="text-align: right;">Page 330</p> <p>1 Rogers</p> <p>2 George Hesse was aware of what actual</p> <p>3 injuries took place. That is my</p> <p>4 objection, you can answer.</p> <p>5 A. That is my answer, because I 10:19:43</p> <p>6 didn't know at that time.</p> <p>7 Q. Why did you speak with George</p> <p>8 Hesse about that issue at that time; that is</p> <p>9 about the incident at that time?</p> <p>10 MR. NOVIKOFF: Is the question why 10:19:52</p> <p>11 she didn't talk to George Hesse about it?</p> <p>12 MR. GRAFF: No, why did she.</p> <p>13 MR. NOVIKOFF: Go ahead.</p> <p>14 A. Because I heard about it on the</p> <p>15 street and I inquired about it. 10:20:00</p> <p>16 Q. Why did you inquire of George</p> <p>17 Hesse about that incident?</p> <p>18 A. He was Deputy Police Chief.</p> <p>19 Q. Did you inquire of anybody else</p> <p>20 about that incident? 10:20:15</p> <p>21 MR. NOVIKOFF: You can answer.</p> <p>22 A. No.</p> <p>23 Q. As you sit here today do you know</p> <p>24 whether that individual in fact sustained a</p> <p>25 ruptured spleen? 10:20:33</p>

<p style="text-align: right;">Page 331</p> <p>1 Rogers</p> <p>2 MR. NOVIKOFF: Other than from</p> <p>3 what she read in newspaper; she testified</p> <p>4 that she read in Newsday that the</p> <p>5 individual suffered a ruptured spleen. 10:20:41</p> <p>6 So is the question other than what she</p> <p>7 read is she aware --</p> <p>8 MR. GRAFF: I believe she</p> <p>9 testified that there was an allegation in</p> <p>10 the paper. I am asking now whether she 10:20:50</p> <p>11 ever obtained further information.</p> <p>12 MR. NOVIKOFF: That is fine.</p> <p>13 Okay. Other than from counsel.</p> <p>14 A. Other than in the presence of</p> <p>15 counsel? 10:21:02</p> <p>16 MR. NOVIKOFF: Right.</p> <p>17 A. No.</p> <p>18 Q. Did you ever read a press release</p> <p>19 issued by the district attorney in connection</p> <p>20 with its investigation of this incident? 10:21:30</p> <p>21 A. I read several articles in the</p> <p>22 newspaper. I don't know if that was a result</p> <p>23 of a press release by the district attorney.</p> <p>24 MR. NOVIKOFF: I am going to voice</p> <p>25 an objection. I am not going to instruct 10:21:48</p>	<p style="text-align: right;">Page 333</p> <p>1 Rogers</p> <p>2 Q. And when you say reasonably valid,</p> <p>3 does that mean something different than valid?</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. That means I had no opinion on 10:23:20</p> <p>6 every item of conversation on this, on every</p> <p>7 particular detail. I had no way of knowing,</p> <p>8 therefore I had some modest concern.</p> <p>9 Q. Could you explain the nature of</p> <p>10 the modest concern that you just referred to? 10:23:50</p> <p>11 A. No more than I just told you.</p> <p>12 Q. Did you form a personal opinion as</p> <p>13 to whether George Hesse's statements about the</p> <p>14 incident were inaccurate in any respect?</p> <p>15 MR. NOVIKOFF: Objection to the 10:24:08</p> <p>16 form. You can answer.</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 MR. NOVIKOFF: I think it is asked</p> <p>19 and answered, but go ahead.</p> <p>20 A. I just told you, that I felt that 10:24:15</p> <p>21 he was reasonably valid, that there was</p> <p>22 possibly some opinion that he gave me that</p> <p>23 could be questionable, but I wasn't there, so</p> <p>24 I couldn't balance it against anything that I</p> <p>25 knew. 10:24:35</p>
<p style="text-align: right;">Page 332</p> <p>1 Rogers</p> <p>2 you not to answer. I believe you are now</p> <p>3 litigating another case other than this,</p> <p>4 and at the appropriate time I will move</p> <p>5 for costs. But rather than fight that 10:21:58</p> <p>6 battle now I want Ms. Rogers to complete</p> <p>7 her deposition. So I am just going to</p> <p>8 note that and you can answer the question</p> <p>9 Ms. Rogers.</p> <p>10 Q. Based on the information conveyed 10:22:12</p> <p>11 to you in your conversation with George Hesse</p> <p>12 and anything else that you may have learned</p> <p>13 about the incident from the newspaper, did you</p> <p>14 at any point come to form a personal belief as</p> <p>15 to the veracity of George Hesse's description 10:22:32</p> <p>16 of the incident?</p> <p>17 MR. NOVIKOFF: Not my objection,</p> <p>18 you can answer.</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 A. I had an opinion, yes. 10:22:45</p> <p>21 Q. What opinion did you have?</p> <p>22 MR. NOVIKOFF: Note my objection,</p> <p>23 you can answer.</p> <p>24 A. I felt that his description was</p> <p>25 reasonably valid. 10:23:05</p>	<p style="text-align: right;">Page 334</p> <p>1 Rogers</p> <p>2 Q. How long have you known George</p> <p>3 Hesse?</p> <p>4 A. Since I was on the board as a</p> <p>5 trustee, I don't know at what point he became 10:24:52</p> <p>6 a member of the Police Department. But</p> <p>7 certainly since 1998. I don't know.</p> <p>8 Q. Earlier you had referred to there</p> <p>9 being two full-time police officers during the</p> <p>10 off season at Ocean Beach; is that correct? 10:25:30</p> <p>11 A. Yes.</p> <p>12 MR. NOVIKOFF: Objection. Her</p> <p>13 testimony is her testimony. You can</p> <p>14 answer the question.</p> <p>15 A. Yes. 10:25:37</p> <p>16 Q. Were those two full-time officers</p> <p>17 the only police officers working at Ocean</p> <p>18 Beach during the officer season?</p> <p>19 MR. NOVIKOFF: Which off season;</p> <p>20 any off season? 10:25:50</p> <p>21 MR. GRAFF: That is a fair point.</p> <p>22 Q. Mayor Rogers, when you referred to</p> <p>23 two full-time police officers who worked</p> <p>24 during the off season, was it the case that</p> <p>25 there were only two full-time police officers 10:26:05</p>

<p style="text-align: right;">Page 335</p> <p>1 Rogers</p> <p>2 throughout your service as Mayor or Police</p> <p>3 Commissioner?</p> <p>4 A. Yes.</p> <p>5 Q. Were those two police officers the 10:26:14</p> <p>6 only two police officers on duty in Ocean</p> <p>7 Beach during the off season?</p> <p>8 A. I believe so.</p> <p>9 Q. To your knowledge were there also</p> <p>10 part-time police officers who were employed by 10:26:28</p> <p>11 Ocean Beach during the off season?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. Who were the two full-time police</p> <p>14 officers that you referred to?</p> <p>15 A. Ed Paradiso and George Hesse. 10:26:44</p> <p>16 Q. To your knowledge was George Hesse</p> <p>17 a resident of Ocean Beach at any time during</p> <p>18 your service as Mayor or Police Commissioner?</p> <p>19 A. To my knowledge no.</p> <p>20 Q. To your knowledge was Ed Paradiso 10:27:03</p> <p>21 a resident of Ocean Beach at any time during</p> <p>22 your service as Police Commissioner?</p> <p>23 A. Yes.</p> <p>24 Q. To your knowledge was full-time</p> <p>25 residency in Ocean Beach a requirement for 10:27:12</p>	<p style="text-align: right;">Page 337</p> <p>1 Rogers</p> <p>2 familiar to you?</p> <p>3 A. Say again.</p> <p>4 Q. Catherine Spies or Spies</p> <p>5 S-P-I-E-S? 10:28:53</p> <p>6 A. I don't recall the name.</p> <p>7 Q. If you could take a look at the</p> <p>8 document marked as Exhibit Rogers 9, at the</p> <p>9 bottom of the document?</p> <p>10 MR. NOVIKOFF: Okay. Where 10:29:15</p> <p>11 specifically.</p> <p>12 Q. Under the signature line?</p> <p>13 A. Yes, she was deputy clerk. I am</p> <p>14 sorry, I didn't get the last name.</p> <p>15 MR. NOVIKOFF: Okay. 10:29:28</p> <p>16 Q. Am I pronouncing the name</p> <p>17 correctly, Spies?</p> <p>18 A. Yes. I didn't pay attention to</p> <p>19 the last name. Yes, you are pronouncing it</p> <p>20 right. 10:29:42</p> <p>21 Q. Was Ms. Spies the deputy village</p> <p>22 clerk during your service as mayor?</p> <p>23 MR. NOVIKOFF: During the entire</p> <p>24 service?</p> <p>25 Q. At any point? 10:29:50</p>
<p style="text-align: right;">Page 336</p> <p>1 Rogers</p> <p>2 full-time employment as a police officer at</p> <p>3 Ocean Beach at any time during your service as</p> <p>4 Mayor?</p> <p>5 MR. NOVIKOFF: Objection. You can 10:27:21</p> <p>6 answer.</p> <p>7 A. I do not know.</p> <p>8 Q. To your knowledge during your</p> <p>9 service as Mayor of Ocean Beach did the</p> <p>10 Village Board of Trustees settle any lawsuits 10:27:49</p> <p>11 that had named the Ocean Beach Police</p> <p>12 Department as defendants?</p> <p>13 MR. NOVIKOFF: Objection. You can</p> <p>14 answer.</p> <p>15 A. I know of one specific one. I 10:27:59</p> <p>16 don't know of -- to my knowledge I don't know</p> <p>17 of any others.</p> <p>18 Q. What is the specific lawsuit that</p> <p>19 you are referring to?</p> <p>20 A. Bridget Peterson I think is the 10:28:12</p> <p>21 last name.</p> <p>22 Q. Does the name David Gerdon, is the</p> <p>23 name David Gerdon familiar to you?</p> <p>24 A. No.</p> <p>25 Q. Is the name Catherine Spies 10:28:35</p>	<p style="text-align: right;">Page 338</p> <p>1 Rogers</p> <p>2 A. At any point, yes.</p> <p>3 Q. Was she deputy clerk throughout</p> <p>4 your service as mayor?</p> <p>5 A. She left at some point, but I 10:30:00</p> <p>6 don't remember the date.</p> <p>7 Q. As deputy clerk -- strike that.</p> <p>8 Was Ms. Spies deputy clerk during</p> <p>9 any portion of the period when Ms. Minerva was</p> <p>10 village administrator? 10:30:18</p> <p>11 A. Yes.</p> <p>12 Q. As deputy village clerk was</p> <p>13 Ms. Spies subordinate to Maryann Minerva?</p> <p>14 A. Yes.</p> <p>15 Q. Was it your understanding that 10:30:31</p> <p>16 Maryann Minerva was Ms. Spies direct</p> <p>17 supervisor?</p> <p>18 A. Yes.</p> <p>19 Q. Other than Maryann Minerva was</p> <p>20 anybody else responsible for supervising 10:30:46</p> <p>21 Ms. Spies?</p> <p>22 MR. NOVIKOFF: Directly or</p> <p>23 indirectly?</p> <p>24 MR. GRAFF: To any extent.</p> <p>25 MR. NOVIKOFF: Object to the form, 10:30:58</p>

<p style="text-align: right;">Page 339</p> <p>1 Rogers</p> <p>2 you can answer.</p> <p>3 A. Not to my knowledge.</p> <p>4 Q. Did you participate in the hiring</p> <p>5 process for Ms. Spies? 10:31:03</p> <p>6 MR. NOVIKOFF: Objection. You can</p> <p>7 answer.</p> <p>8 A. No.</p> <p>9 Q. Was Ms. Spies employed at Ocean</p> <p>10 Beach at the time that you were first elected 10:31:11</p> <p>11 to serve as trustee?</p> <p>12 A. It was 1991, I don't know.</p> <p>13 Q. To your knowledge did anyone at</p> <p>14 Ocean Beach conduct performance reviews with</p> <p>15 respect to Maryann Minerva's employment at 10:31:49</p> <p>16 Ocean Beach?</p> <p>17 MR. NOVIKOFF: Objection.</p> <p>18 A. Not formal reviews, no.</p> <p>19 Q. Do you have any information or</p> <p>20 reason to believe that informal reviews were 10:32:04</p> <p>21 conducted with respect to Maryann Minerva's</p> <p>22 performance in her capacity as an employee at</p> <p>23 Ocean Beach?</p> <p>24 A. There were no specific formal</p> <p>25 methodology of conducting performance reviews. 10:32:25</p> <p style="text-align: right;">Page 340</p>	<p style="text-align: right;">Page 341</p> <p>1 Rogers</p> <p>2 Q. If I asked the question, do you</p> <p>3 generally have knowledge of that issue would</p> <p>4 your response be the same?</p> <p>5 MR. NOVIKOFF: Objection to the 10:34:00</p> <p>6 form.</p> <p>7 A. Yes, it would be the same.</p> <p>8 Q. To your knowledge did anyone --</p> <p>9 strike that.</p> <p>10 To your knowledge did anyone 10:34:07</p> <p>11 conduct performance reviews with respect to</p> <p>12 the performance of Catherine Spies in the</p> <p>13 capacity of Deputy Village Clerk?</p> <p>14 MR. NOVIKOFF: Objection to the</p> <p>15 form. You can answer the question. 10:34:19</p> <p>16 A. Only Maryann Minerva.</p> <p>17 Q. To your knowledge did Ms. Minerva</p> <p>18 conduct such reviews?</p> <p>19 A. No formal review was conducted. I</p> <p>20 think I answered that before. 10:34:34</p> <p>21 Q. Did Ms. Minerva express any view</p> <p>22 to you with respect to her evaluation of</p> <p>23 Catherine Spies performance as deputy clerk?</p> <p>24 MR. NOVIKOFF: Answer the question</p> <p>25 and then I will make a comment. 10:34:53</p> <p style="text-align: right;">Page 342</p>
<p>1 Rogers</p> <p>2 Informally, you know, it is a small village.</p> <p>3 People say to one another how is he doing and</p> <p>4 you say okay. I don't consider that a formal</p> <p>5 review. 10:32:46</p> <p>6 Q. Did anyone ever express to you a</p> <p>7 belief that Maryann Minerva was not performing</p> <p>8 adequately during her employment as village</p> <p>9 administrator?</p> <p>10 A. No one talked to me about it. 10:32:59</p> <p>11 Q. Do you have any information</p> <p>12 concerning any discussions wherein it was</p> <p>13 expressed that Maryann Minerva was not</p> <p>14 performing in a satisfactory manner as village</p> <p>15 administrator at Ocean Beach? 10:33:26</p> <p>16 MR. NOVIKOFF: Hold on, so the</p> <p>17 question you are asking so I am clear,</p> <p>18 does she have any information that other</p> <p>19 people had had conversations concerning</p> <p>20 the efficiency or the competency of 10:33:36</p> <p>21 Maryann Minerva in her role as an</p> <p>22 employee?</p> <p>23 MR. GRAFF: Yes.</p> <p>24 MR. NOVIKOFF: Okay.</p> <p>25 A. Not specifically, no. 10:33:43</p>	<p>1 Rogers</p> <p>2 A. Nothing negative.</p> <p>3 MR. NOVIKOFF: Once again I think</p> <p>4 this line of questioning about Ms. Spies,</p> <p>5 unless there is some connection to the 10:35:02</p> <p>6 issues in this lawsuit is completely</p> <p>7 irrelevant and I will move for costs at</p> <p>8 the appropriate time.</p> <p>9 MR. GRAFF: Fortunately that was</p> <p>10 my last question on Ms. Spies. 10:35:10</p> <p>11 MR. NOVIKOFF: So I guess there is</p> <p>12 no connection. Go ahead.</p> <p>13 MR. GRAFF: I didn't say that, but</p> <p>14 I have exhausted the line of questioning</p> <p>15 to the point that I wanted to. 10:35:22</p> <p>16 MR. NOVIKOFF: Yes, you have</p> <p>17 exhausted it.</p> <p>18 MR. GRAFF: Mr. Novikoff,</p> <p>19 commentary is not appropriate during the</p> <p>20 deposition. 10:35:34</p> <p>21 MR. NOVIKOFF: Thanks for the</p> <p>22 lessen.</p> <p>23 Q. Did you have any conversations</p> <p>24 with Trustee Loeffler concerning the incident</p> <p>25 involving an injury of the individual who we 10:35:56</p>

<p style="text-align: right;">Page 343</p> <p>1 Rogers</p> <p>2 had been speaking about before who was injured</p> <p>3 at the Ocean Beach Police Department?</p> <p>4 A. Not to my recollection.</p> <p>5 Q. Did you have any conversations 10:36:07</p> <p>6 with Trustee Mallott concerning that issue?</p> <p>7 MR. NOVIKOFF: What issue?</p> <p>8 Q. The incident involving injuries to</p> <p>9 an individual that we had been previously</p> <p>10 discussed? 10:36:23</p> <p>11 MR. NOVIKOFF: Can you identify</p> <p>12 name of the person you are referring to.</p> <p>13 Q. Mayor Rogers, do you know the name</p> <p>14 of the individual who was injured at the Ocean</p> <p>15 Beach Police Department? 10:36:31</p> <p>16 MR. NOVIKOFF: Allegedly.</p> <p>17 A. The last name begins with a G I</p> <p>18 think, but I don't know.</p> <p>19 Q. If I told that you the name was</p> <p>20 Gilbreath would that refresh your recollection? 10:36:38</p> <p>21 A. Yes.</p> <p>22 Q. Did you have any conversations</p> <p>23 with Ed Paradiso concerning that incident?</p> <p>24 MR. NOVIKOFF: Objection. Asked</p> <p>25 and answered. 10:36:58</p>	<p style="text-align: right;">Page 345</p> <p>1 Rogers</p> <p>2 A. Yes. The working time overlap.</p> <p>3 Q. Do you recall approximately how</p> <p>4 long before Ed Paradiso sustained his injury</p> <p>5 you learned or investigated that time overlap 10:38:35</p> <p>6 issue?</p> <p>7 A. No, I don't recall.</p> <p>8 Q. Do you believe that it was more</p> <p>9 than a year before?</p> <p>10 MR. NOVIKOFF: Objection. 10:38:47</p> <p>11 A. I don't know.</p> <p>12 Q. Other than that time overlap issue</p> <p>13 did you ever have any reason to question Ed</p> <p>14 Paradiso's integrity?</p> <p>15 MR. NOVIKOFF: Objection. 10:39:04</p> <p>16 A. No.</p> <p>17 Q. Did you ever have any reason -- up</p> <p>18 until the time of that time overlap issue did</p> <p>19 you ever have any reason to believe that Ed</p> <p>20 Paradiso was not truthful? 10:39:16</p> <p>21 MR. NOVIKOFF: Objection.</p> <p>22 A. Only in general people have a</p> <p>23 tendency to exaggerate sometimes. Very vague,</p> <p>24 no yes or no on that.</p> <p>25 Q. Did you have any reason to believe 10:39:45</p>
<p style="text-align: right;">Page 344</p> <p>1 Rogers</p> <p>2 A. No.</p> <p>3 Q. Did you have any conversations</p> <p>4 with Trustee Mallott; I am not sure if I got</p> <p>5 your answer? 10:37:06</p> <p>6 MR. NOVIKOFF: Objection. Asked</p> <p>7 and answered.</p> <p>8 A. I don't recall it, no.</p> <p>9 Q. When was the last time that you</p> <p>10 spoke with Ed Paradiso? 10:37:21</p> <p>11 A. After my husband passed away in</p> <p>12 July, late in July Ed Paradiso came to the</p> <p>13 funeral chapel, I saw him briefly for a few</p> <p>14 minutes.</p> <p>15 Q. Prior to the time that Ed Paradiso 10:37:50</p> <p>16 sustained an injury in connection with which</p> <p>17 he ultimately went on disability did you have</p> <p>18 any reason to question his performance as a</p> <p>19 police chief at Ocean Beach?</p> <p>20 MR. NOVIKOFF: Objection. You can 10:38:10</p> <p>21 answer the question.</p> <p>22 A. Only what I previously discussed</p> <p>23 with you.</p> <p>24 Q. That would be the time overlap</p> <p>25 issue? 10:38:25</p>	<p style="text-align: right;">Page 346</p> <p>1 Rogers</p> <p>2 that Ed Paradiso was more prone to</p> <p>3 exaggeration than any person?</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. To the specific question, no. 10:40:01</p> <p>6 Q. How did you first learn of a</p> <p>7 potential question about time overlap with</p> <p>8 respect to Ed Paradiso's employment at Ocean</p> <p>9 Beach and another employer?</p> <p>10 MR. NOVIKOFF: How did she first 10:40:19</p> <p>11 learn?</p> <p>12 MR. GRAFF: Yes.</p> <p>13 MR. NOVIKOFF: You can answer.</p> <p>14 Once again I think this line of</p> <p>15 questioning is irrelevant and I will move 10:40:26</p> <p>16 for cost, but you can answer the</p> <p>17 question.</p> <p>18 A. It was called to my attention by</p> <p>19 the person who was the Post Mistress of Ocean</p> <p>20 Beach. 10:40:39</p> <p>21 Q. Who was that person?</p> <p>22 A. Dale Wycoff.</p> <p>23 Q. What did Ms. Wycoff say to you</p> <p>24 that alerted you to that possible issue?</p> <p>25 A. That she had records from the 10:41:11</p>

<p style="text-align: right;">Page 347</p> <p>1 Rogers</p> <p>2 school where Ed Paradiso was a security person</p> <p>3 as far as time worked.</p> <p>4 Q. Did she tell you how she came to</p> <p>5 obtain those records? 10:41:44</p> <p>6 A. Not specifically, no.</p> <p>7 Q. Did she share any information with</p> <p>8 you as to how she obtained those records?</p> <p>9 A. She told me she was concerned and</p> <p>10 she got the records. I don't know the basis 10:41:58</p> <p>11 for her concern originally.</p> <p>12 Q. To your knowledge did anybody ever</p> <p>13 communicate directly with Ed Paradiso any</p> <p>14 concern with respect to possible time overlap?</p> <p>15 MR. NOVIKOFF: Objection to the 10:42:15</p> <p>16 beginning of the question as previously</p> <p>17 indicated. You can answer.</p> <p>18 A. I don't know if anybody did, no.</p> <p>19 Q. Do you have any information that</p> <p>20 would provide a basis to believe that somebody 10:42:31</p> <p>21 may have communicated directly with Ed</p> <p>22 Paradiso in connection with that issue?</p> <p>23 MR. NOVIKOFF: Form objection.</p> <p>24 A. I don't know if Dale spoke</p> <p>25 directly to him or not. I don't believe she 10:42:46</p>	<p style="text-align: right;">Page 349</p> <p>1 Rogers</p> <p>2 irrelevant and I will be moving for cost</p> <p>3 at the appropriate time, but you can</p> <p>4 answer the question.</p> <p>5 A. I don't. 10:44:00</p> <p>6 MR. GRAFF: I don't agree that</p> <p>7 they are patently irrelevant.</p> <p>8 Q. Was the answer no, you don't know</p> <p>9 who?</p> <p>10 A. Yes. 10:44:11</p> <p>11 MR. GRAFF: I would like to take a</p> <p>12 brief break, I believe we have</p> <p>13 approximately 40 minutes remaining.</p> <p>14 MR. NOVIKOFF: I don't know, let's</p> <p>15 find out from the videographer. 10:44:20</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 10:44. We are now off the record.</p> <p>18 (Recess taken.)</p> <p>19 THE VIDEOGRAPHER: This is the</p> <p>20 start of tape number 3. The time is 10:57:26</p> <p>21 10:57 a.m., we are now back on the</p> <p>22 record.</p> <p>23 Q. Mayor Rogers, do you know whether</p> <p>24 George Hesse was a resident of Ocean Beach at</p> <p>25 time that he was appointed Acting Police 10:57:39</p>
<p style="text-align: right;">Page 348</p> <p>1 Rogers</p> <p>2 told me.</p> <p>3 Q. To your knowledge did Gale Wycoff</p> <p>4 ever serve in any capacity as the Ocean Beach</p> <p>5 Police Department? 10:43:01</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 Beginning of the sentence. You can</p> <p>8 answer.</p> <p>9 A. To my knowledge, no.</p> <p>10 Q. Just to be clear, are we talking 10:43:07</p> <p>11 about Gale with a G?</p> <p>12 A. Dale, D-A-L-E.</p> <p>13 Q. Thank you.</p> <p>14 To your knowledge did Dale Wycoff</p> <p>15 have any family members who ever served in any 10:43:19</p> <p>16 capacity at Ocean Beach?</p> <p>17 MR. NOVIKOFF: Objection.</p> <p>18 A. I don't know. I really don't</p> <p>19 know.</p> <p>20 Q. Do you know who Marisa Wycoff is? 10:43:31</p> <p>21 A. Who?</p> <p>22 Q. Marisa Wycoff?</p> <p>23 A. No.</p> <p>24 MR. NOVIKOFF: Note my objection.</p> <p>25 I think these questions are also patently 10:43:47</p>	<p style="text-align: right;">Page 350</p> <p>1 Rogers</p> <p>2 Chief?</p> <p>3 A. I don't know.</p> <p>4 Q. During your service as Mayor</p> <p>5 and/or Police Commissioner did Ocean Beach 10:57:46</p> <p>6 have any formal written rules pertaining to</p> <p>7 the conduct of the Ocean Beach Police</p> <p>8 Department?</p> <p>9 MR. NOVIKOFF: Objection. You can</p> <p>10 answer. 10:57:58</p> <p>11 A. I don't know.</p> <p>12 Q. Have you ever -- strike that.</p> <p>13 Do you know who Mitch Burns is?</p> <p>14 A. No.</p> <p>15 Q. Have you ever heard that name 10:58:10</p> <p>16 prior to my saying it just a moment ago?</p> <p>17 A. Mitch Burns?</p> <p>18 Q. Burns, yes.</p> <p>19 A. Not that I can recall.</p> <p>20 Q. Do you know who Doug Wycoff is? 10:58:20</p> <p>21 A. Yes.</p> <p>22 Q. Who is Doug Wycoff?</p> <p>23 A. I think that is Dale's husband.</p> <p>24 Q. Have you met him before?</p> <p>25 A. Yes, I have seen him. I say 10:58:32</p>

<p style="text-align: right;">Page 351</p> <p>1 Rogers</p> <p>2 hello.</p> <p>3 Q. To your knowledge was he employed</p> <p>4 in Ocean Beach during your service as Mayor</p> <p>5 and Police Commissioner? 10:58:40</p> <p>6 A. I don't know.</p> <p>7 Q. Do you know whether he ever worked</p> <p>8 as a bouncer at Ocean Beach at a bar?</p> <p>9 A. I don't know.</p> <p>10 Q. Do you know who Doug Wycoff, Jr. 10:58:52</p> <p>11 is?</p> <p>12 A. I have heard the name, I couldn't</p> <p>13 identify him.</p> <p>14 Q. Do you know anything at all</p> <p>15 concerning Doug Wycoff, Jr.? 10:59:10</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. I may be mistaken, but he -- is</p> <p>18 that the son -- she had one son who died. I</p> <p>19 don't know if this is him or not.</p> <p>20 Q. You are referring to Dale Wycoff? 10:59:31</p> <p>21 A. Yes.</p> <p>22 Q. Do you know anything concerning</p> <p>23 the circumstances surrounding the death of</p> <p>24 Dale Wycoff's son who passed away?</p> <p>25 MR. NOVIKOFF: You are kidding me; 10:59:47</p>	<p style="text-align: right;">Page 353</p> <p>1 Rogers</p> <p>2 Q. Mayor Rogers, did you review any</p> <p>3 documents concerning Ocean Beach prior to your</p> <p>4 deposition today?</p> <p>5 MR. NOVIKOFF: Between the time of 11:01:49</p> <p>6 her last deposition and this?</p> <p>7 MR. GRAFF: Yes.</p> <p>8 MR. NOVIKOFF: So the question is</p> <p>9 prior to your last deposition, the</p> <p>10 conclusion of that and today did you 11:01:58</p> <p>11 review any documents concerning Ocean</p> <p>12 Beach?</p> <p>13 A. No.</p> <p>14 Q. In the weeks prior to your first</p> <p>15 day of deposition testimony did you review any 11:02:07</p> <p>16 documents concerning Ocean Beach?</p> <p>17 MR. NOVIKOFF: Objection. Asked</p> <p>18 and answered. You can answer again.</p> <p>19 A. I didn't review any. I threw some</p> <p>20 out. I didn't look at them. 11:02:22</p> <p>21 MR. NOVIKOFF: In the weeks prior?</p> <p>22 THE WITNESS: I was throwing out</p> <p>23 papers, I have been doing that for a</p> <p>24 while.</p> <p>25 Q. Did any of the documents that you 11:02:31</p>
<p style="text-align: right;">Page 352</p> <p>1 Rogers</p> <p>2 right?</p> <p>3 MR. GRAFF: No.</p> <p>4 MR. NOVIKOFF: You can answer the</p> <p>5 question. 10:59:50</p> <p>6 A. I may have heard that it had to do</p> <p>7 with drugs.</p> <p>8 Q. Did Dale Wycoff ever express any</p> <p>9 opinion to you that you understood as an</p> <p>10 indication that she blamed Ed Paradiso in some 11:00:10</p> <p>11 way for the death of her son?</p> <p>12 A. No.</p> <p>13 Q. Do you know who Mike Loeffler is?</p> <p>14 A. No.</p> <p>15 Q. To your knowledge does current 11:00:24</p> <p>16 Mayor Joe Loeffler have any children?</p> <p>17 A. Yes, he has several.</p> <p>18 Q. To your knowledge are any of Mayor</p> <p>19 Loeffler's children employed at Ocean Beach?</p> <p>20 A. Yes. 11:01:22</p> <p>21 MR. NOVIKOFF: Once again I think</p> <p>22 this entire line of questioning is</p> <p>23 patently irrelevant, I will move for</p> <p>24 cost, but you can answer the question.</p> <p>25 A. Yes. 11:01:39</p>	<p style="text-align: right;">Page 354</p> <p>1 Rogers</p> <p>2 threw out refresh your recollection of</p> <p>3 anything concerning Ocean Beach?</p> <p>4 MR. NOVIKOFF: Objection to the</p> <p>5 form. I think you are lacking 11:02:49</p> <p>6 foundation, but you can answer the</p> <p>7 question.</p> <p>8 A. No.</p> <p>9 Q. Do you know whether you threw out</p> <p>10 any documents concerning the Ocean Beach 11:03:00</p> <p>11 Police Department in the weeks prior to your</p> <p>12 deposition?</p> <p>13 A. I don't know.</p> <p>14 Q. Other than yourself did anybody</p> <p>15 else independently throw out any documents 11:03:11</p> <p>16 that you had been maintaining in your home in</p> <p>17 Queens?</p> <p>18 MR. NOVIKOFF: Objection to the</p> <p>19 form.</p> <p>20 A. Yes. Did anyone else other than 11:03:22</p> <p>21 myself?</p> <p>22 Q. Throw away any documents</p> <p>23 concerning Ocean Beach that you had been</p> <p>24 maintaining there?</p> <p>25 A. Not that I know of. 11:03:31</p>

<p style="text-align: right;">Page 355</p> <p>1 Rogers</p> <p>2 Q. Do you know whether anyone</p> <p>3 searched through the documents that you</p> <p>4 maintained in Queens to identify whether any</p> <p>5 of those documents related to this lawsuit? 11:03:48</p> <p>6 A. Anyone?</p> <p>7 MR. NOVIKOFF: Other than</p> <p>8 Ms. Rogers?</p> <p>9 MR. GRAFF: Yes.</p> <p>10 A. No. Nobody went through any of my 11:03:59</p> <p>11 papers.</p> <p>12 Q. Did you go through any of your</p> <p>13 papers to identify whether any of those</p> <p>14 documents pertained to the Ocean Beach Police</p> <p>15 Department? 11:04:10</p> <p>16 A. No.</p> <p>17 Q. Did you go through any of your</p> <p>18 papers to determine whether any of those</p> <p>19 papers related to this lawsuit?</p> <p>20 A. No. 11:04:20</p> <p>21 Q. Other than the Unity Party are</p> <p>22 there any political parties that you are aware</p> <p>23 of that exist solely with respect to elections</p> <p>24 in Ocean Beach?</p> <p>25 MR. NOVIKOFF: Objection. 11:04:42</p>	<p style="text-align: right;">Page 357</p> <p>1 Rogers</p> <p>2 Beach?</p> <p>3 A. Not specifically for me, for the</p> <p>4 election that was on at that time.</p> <p>5 Q. And is that the case with respect 11:06:14</p> <p>6 to all of your elections for Ocean Beach?</p> <p>7 A. Yes.</p> <p>8 MR. NOVIKOFF: Note my objection</p> <p>9 to this line of questioning as being</p> <p>10 patently irrelevant. But you did answer. 11:06:32</p> <p>11 A. I did answer yes.</p> <p>12 Q. Do you know whether your second</p> <p>13 campaign for Mayor of Ocean Beach who was</p> <p>14 responsible for allocation or disbursements of</p> <p>15 the funds raised by the Unity Party? 11:06:44</p> <p>16 MR. NOVIKOFF: Same comment.</p> <p>17 A. I believe -- strike the word I</p> <p>18 believe.</p> <p>19 James Mallott had the checkbook.</p> <p>20 Q. Do you recall approximately the 11:07:05</p> <p>21 total amount of funds that were raised by the</p> <p>22 Unity Party at the time or in connection with</p> <p>23 the second election that you ran for Mayor in</p> <p>24 Ocean Beach?</p> <p>25 MR. NOVIKOFF: Same comment. 11:07:20</p>
<p style="text-align: right;">Page 356</p> <p>1 Rogers</p> <p>2 A. As of when?</p> <p>3 Q. At any point during your service</p> <p>4 as Mayor or Police Commissioner?</p> <p>5 MR. NOVIKOFF: Objection. 11:04:49</p> <p>6 A. When I first ran the Unity Party</p> <p>7 there was a party called the Better Way Party</p> <p>8 I think. Then there is something called the</p> <p>9 Community Party, I don't even know who is</p> <p>10 involved in it. 11:05:06</p> <p>11 Q. To your knowledge did Trustee</p> <p>12 Einig run as a candidate on the slate on any</p> <p>13 of either of those two parties?</p> <p>14 MR. NOVIKOFF: Objection to the</p> <p>15 form. 11:05:30</p> <p>16 A. When you run in Ocean Beach you</p> <p>17 have to designate a party name. What he</p> <p>18 called the party name that he ran on I do not</p> <p>19 know.</p> <p>20 Q. Do you know whether the Unity 11:05:43</p> <p>21 Party ever raised funds for candidates for</p> <p>22 office in Ocean Beach?</p> <p>23 A. Yes. We did raise some funds.</p> <p>24 Q. And did the Unity Party raise</p> <p>25 funds for your campaigns for office in Ocean 11:06:02</p>	<p style="text-align: right;">Page 358</p> <p>1 Rogers</p> <p>2 A. I do not recall the amount, no.</p> <p>3 Q. Do you know whether there was ever</p> <p>4 an investigation within Ocean Beach concerning</p> <p>5 potential voting irregularities in connection 11:07:48</p> <p>6 with any of the elections in which you were a</p> <p>7 candidate for office?</p> <p>8 MR. NOVIKOFF: Same comment.</p> <p>9 A. Do I know if there was an</p> <p>10 investigation, is that your question? 11:08:00</p> <p>11 Q. Yes.</p> <p>12 MR. NOVIKOFF: Also object to the</p> <p>13 form. But you can answer the question.</p> <p>14 A. The answer to your question is no.</p> <p>15 Q. Do you know whether there was ever 11:08:10</p> <p>16 an investigation conducted by an entity</p> <p>17 outside of Ocean Beach concerning potential</p> <p>18 voting irregularities in connection with</p> <p>19 voters registered in Ocean Beach?</p> <p>20 MR. NOVIKOFF: Same comment. 11:08:21</p> <p>21 A. Not to my knowledge.</p> <p>22 MR. NOVIKOFF: Do you have a good</p> <p>23 faith basis, counselor, other than your</p> <p>24 client passing you a note that there was</p> <p>25 some investigation by some entity other 11:08:34</p>

<p style="text-align: right;">Page 359</p> <p>1 Rogers</p> <p>2 than Ocean Beach?</p> <p>3 MR. GRAFF: Mr. Novikoff, I am</p> <p>4 taking a deposition.</p> <p>5 MR. NOVIKOFF: I am asking you, do 11:08:42</p> <p>6 you have a good faith basis to ask that</p> <p>7 question because that is the foundation</p> <p>8 of all questions.</p> <p>9 MR. GRAFF: I don't believe that I</p> <p>10 am required to represent that to you, but 11:08:50</p> <p>11 I will indicate that yes I do have a good</p> <p>12 faith basis for asking this line of</p> <p>13 questioning.</p> <p>14 MR. NOVIKOFF: Okay, got you.</p> <p>15 Q. Mayor Rogers, during your 11:09:00</p> <p>16 employment as Mayor and/or Police Commissioner</p> <p>17 did you have any personal responsibilities</p> <p>18 with respect to determining the salaries of</p> <p>19 any employees at Ocean Beach?</p> <p>20 A. Yes. 11:09:10</p> <p>21 Q. And what was the nature of your</p> <p>22 responsibility in that area?</p> <p>23 A. I set the approximate increase</p> <p>24 across the board for salaries at approximately</p> <p>25 3 and a half percent, and I reviewed any 11:09:39</p>	<p style="text-align: right;">Page 361</p> <p>1 Rogers</p> <p>2 comment about the patently irrelevancy of</p> <p>3 these questions, but you can answer.</p> <p>4 Q. Was that the only such occasion</p> <p>5 when you reviewed a higher than 3 percent 11:11:57</p> <p>6 salary increase for Maryann Minerva?</p> <p>7 MR. NOVIKOFF: Same comment.</p> <p>8 A. Yes.</p> <p>9 Q. And do you recall what percentage</p> <p>10 salary increase you reviewed for Maryann 11:12:12</p> <p>11 Minerva at that time?</p> <p>12 MR. NOVIKOFF: Same comment.</p> <p>13 A. It was a flat increase, not a</p> <p>14 percentage as I recall.</p> <p>15 Q. Do you recall the amount of that 11:12:23</p> <p>16 flat increase?</p> <p>17 A. No.</p> <p>18 Q. What about with respect to Susan</p> <p>19 Cafuoco, when did you have an occasion to</p> <p>20 review a higher than 3 percent salary increase 11:12:34</p> <p>21 for Susan Cafuoco?</p> <p>22 MR. NOVIKOFF: Same comment.</p> <p>23 A. When she took on the duties of --</p> <p>24 after Cathy Spies left when she took on some</p> <p>25 of the duties of Deputy Clerk without the 11:12:51</p>
<p style="text-align: right;">Page 360</p> <p>1 Rogers</p> <p>2 possible special considerations.</p> <p>3 Q. Do you recall whether you reviewed</p> <p>4 any special considerations with respect to a</p> <p>5 higher than 3 percent increase for any 11:10:01</p> <p>6 specific employees?</p> <p>7 MR. NOVIKOFF: Objection to the</p> <p>8 form.</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall any of the specific 11:10:13</p> <p>11 employees who that applies to?</p> <p>12 A. Kevin Schilling was in charge of</p> <p>13 all construction. I think Richard Schilling.</p> <p>14 There is somebody else in the water department</p> <p>15 but I can't recall his name right offhand. 11:10:49</p> <p>16 Susan Cafuoco, Maryann Minerva. That is what</p> <p>17 I recall.</p> <p>18 Q. Do you recall when you had</p> <p>19 occasion to review a higher than 3 percent</p> <p>20 salary increase for Maryann Minerva? 11:11:25</p> <p>21 A. I don't know the date, but it was</p> <p>22 at the time that she took on the job of</p> <p>23 Administrator and Village Clerk combined. A</p> <p>24 prior administrator had left or was leaving.</p> <p>25 MR. NOVIKOFF: I repeat my prior 11:11:47</p>	<p style="text-align: right;">Page 362</p> <p>1 Rogers</p> <p>2 designation, but some of the duties, and</p> <p>3 purchasing.</p> <p>4 Q. What was Susan Cafuoco's position</p> <p>5 up until that time? 11:13:13</p> <p>6 MR. NOVIKOFF: Same comment.</p> <p>7 A. She was a clerk. I don't know the</p> <p>8 exact title.</p> <p>9 Q. And to the extent that she was</p> <p>10 fulfilling duties of Deputy Clerk was her 11:13:29</p> <p>11 supervisor in that capacity Maryann Minerva?</p> <p>12 MR. NOVIKOFF: Asked and answered.</p> <p>13 Same comment.</p> <p>14 A. Yes.</p> <p>15 Q. And what percent salary increase 11:13:40</p> <p>16 did you review for Susan Cafuoco at that time?</p> <p>17 MR. NOVIKOFF: Same comment.</p> <p>18 A. I don't remember the percentage,</p> <p>19 but it was small.</p> <p>20 Q. Did you approve that percentage 11:14:03</p> <p>21 increase of whatever amount in excess of 3</p> <p>22 percent for Susan Cafuoco?</p> <p>23 MR. NOVIKOFF: Same comment.</p> <p>24 A. Yes.</p> <p>25 Q. Do you recall whether that 11:14:13</p>

<p style="text-align: right;">Page 363</p> <p>1 Rogers</p> <p>2 increase that you approved was ever rescinded?</p> <p>3 A. Yes.</p> <p>4 MR. NOVIKOFF: Same comment.</p> <p>5 Q. When was it rescinded? 11:14:27</p> <p>6 A. At a meeting.</p> <p>7 Q. Do you recall why it came to be</p> <p>8 rescinded?</p> <p>9 MR. NOVIKOFF: Same comment.</p> <p>10 A. Because I didn't have the votes to 11:14:37</p> <p>11 hold it.</p> <p>12 Q. And what meeting are you referring</p> <p>13 to?</p> <p>14 MR. NOVIKOFF: Same comment.</p> <p>15 A. A meeting of the Board of 11:14:45</p> <p>16 Trustees, I cannot give you the date, I don't</p> <p>17 know it.</p> <p>18 Q. Do you recall why certain members</p> <p>19 of the Board of Trustees were opposed to that</p> <p>20 salary increase? 11:14:57</p> <p>21 MR. NOVIKOFF: Same comment.</p> <p>22 A. It was in the budget, but they had</p> <p>23 not read the budget.</p> <p>24 Q. When they came to learn that that</p> <p>25 salary increase was contained in the budget 11:15:15</p>	<p style="text-align: right;">Page 365</p> <p>1 Rogers</p> <p>2 A. Yes.</p> <p>3 Q. Which of the officers, all five of</p> <p>4 whom are present today, they were not all last</p> <p>5 time, which of the five -- 11:16:18</p> <p>6 MR. CONNOLLY: I think there is</p> <p>7 only four present. Sorry.</p> <p>8 Q. Which of the five did you make</p> <p>9 comments of that nature to?</p> <p>10 MR. NOVIKOFF: Objection. Asked 11:16:30</p> <p>11 and answered. I move for costs, go</p> <p>12 ahead.</p> <p>13 A. I think I commented regarding</p> <p>14 Frank.</p> <p>15 Q. Other than Frank Fiorillo, did you 11:16:37</p> <p>16 make any comments concerning the performance</p> <p>17 of any of the other plaintiffs in this</p> <p>18 lawsuit?</p> <p>19 MR. NOVIKOFF: Objection, asked</p> <p>20 and answered, moving for costs. 11:16:45</p> <p>21 A. I don't recall.</p> <p>22 Q. Mayor Rogers, did there ever come</p> <p>23 a time when you directed anyone at the --</p> <p>24 strike that.</p> <p>25 Did there ever come a time when 11:17:04</p>
<p style="text-align: right;">Page 364</p> <p>1 Rogers</p> <p>2 was there any reason that you recall them</p> <p>3 expressing as to why they did not want that</p> <p>4 increase to go through?</p> <p>5 MR. NOVIKOFF: Same comment. 11:15:25</p> <p>6 A. They didn't want it.</p> <p>7 Q. Do you recall --</p> <p>8 A. They didn't want it.</p> <p>9 Q. Do you recall anybody explaining</p> <p>10 at that meeting why they didn't want it? 11:15:32</p> <p>11 MR. NOVIKOFF: Same comment.</p> <p>12 A. They didn't want it.</p> <p>13 Q. Do you recall whether any legal</p> <p>14 proceedings were ever initiated with respect</p> <p>15 to that salary increase for Susan Cafuoco? 11:15:45</p> <p>16 MR. NOVIKOFF: Same comment.</p> <p>17 A. I don't believe so.</p> <p>18 Q. Mayor Rogers, have you ever made</p> <p>19 any statements to any of the plaintiffs in</p> <p>20 this lawsuit or in this room concerning their 11:15:59</p> <p>21 performance as police officers?</p> <p>22 A. I think you asked me that last</p> <p>23 time.</p> <p>24 MR. NOVIKOFF: I think you did,</p> <p>25 asked and answered. 11:16:09</p>	<p style="text-align: right;">Page 366</p> <p>1 Rogers</p> <p>2 you communicated to anyone at the Ocean Beach</p> <p>3 Police Department that any laws in Ocean Beach</p> <p>4 should be enforced more strictly?</p> <p>5 A. Yes. 11:17:17</p> <p>6 Q. And on how many occasions did you</p> <p>7 express that view or communicate that view?</p> <p>8 A. I can't tell you the number, but</p> <p>9 it was more than once.</p> <p>10 Q. To whom did you communicate that 11:17:36</p> <p>11 view?</p> <p>12 A. Ed Paradiso.</p> <p>13 Q. Did you communicate that view to</p> <p>14 anyone other than Ed Paradiso?</p> <p>15 A. I don't believe so, no. 11:17:45</p> <p>16 Q. Did you communicate that view to</p> <p>17 Ed Paradiso prior to the time that you began</p> <p>18 serving as Police Commissioner?</p> <p>19 A. No.</p> <p>20 Q. Do you recall when approximately 11:17:59</p> <p>21 the first time was that you communicated that</p> <p>22 view to Ed Paradiso?</p> <p>23 A. No.</p> <p>24 Q. Do you recall what you</p> <p>25 communicated to Ed Paradiso on any of those 11:18:11</p>

<p style="text-align: right;">Page 367</p> <p>1 Rogers</p> <p>2 occasions with respect to this issue?</p> <p>3 A. I asked for specific information</p> <p>4 as to how many summonses had been written and</p> <p>5 what the nature of the complaint was, and I 11:18:28</p> <p>6 asked him for a report on it.</p> <p>7 Q. Did Ed Paradiso report to you on</p> <p>8 that issue?</p> <p>9 A. Yes, he did.</p> <p>10 Q. Did he report to you on that issue 11:18:39</p> <p>11 more than once?</p> <p>12 MR. NOVIKOFF: Objection to the</p> <p>13 form. You can answer the question.</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall how many times he 11:18:52</p> <p>16 reported to you on that issue?</p> <p>17 A. No, I do not.</p> <p>18 Q. Do you recall whether any of Ed</p> <p>19 Paradiso's reports to you on that issue were</p> <p>20 written? 11:19:02</p> <p>21 A. I believe so, yes.</p> <p>22 Q. To be clear, did Ed Paradiso</p> <p>23 produce to you documents from the Ocean Beach</p> <p>24 Police Department or did he issue a written</p> <p>25 report concerning that issue? 11:19:34</p>	<p style="text-align: right;">Page 369</p> <p>1 Rogers</p> <p>2 meeting?</p> <p>3 MR. NOVIKOFF: Objection to the</p> <p>4 characterization of the testimony, you</p> <p>5 can answer. 11:20:38</p> <p>6 A. At an open meeting I don't recall</p> <p>7 it.</p> <p>8 Q. Was it ever discussed at an</p> <p>9 executive session of the village board during</p> <p>10 the time that you served as Police 11:20:50</p> <p>11 Commissioner or Mayor?</p> <p>12 A. It may have been.</p> <p>13 Q. To the extent that it was</p> <p>14 discussed in executive session do you recall</p> <p>15 anything of such a conversation? 11:20:59</p> <p>16 A. No.</p> <p>17 MR. NOVIKOFF: Note my objection</p> <p>18 based on attorney/client privilege, but</p> <p>19 according to Judge Boyle's ruling you</p> <p>20 have to answer. 11:21:11</p> <p>21 A. No.</p> <p>22 Q. On the first such occasion when Ed</p> <p>23 Paradiso reported to you do you recall</p> <p>24 anything of the substance of what he reported?</p> <p>25 A. No. 11:21:20</p>
<p style="text-align: right;">Page 368</p> <p>1 Rogers</p> <p>2 MR. NOVIKOFF: Objection. I don't</p> <p>3 know what the difference is, but you can</p> <p>4 answer if you can.</p> <p>5 A. Documents meaning copy of 11:19:40</p> <p>6 summonses?</p> <p>7 Q. Yes, any documents that were</p> <p>8 existing in the course of business at the</p> <p>9 Police Department?</p> <p>10 MR. NOVIKOFF: Objection. Calls 11:19:49</p> <p>11 for a legal conclusion. You can answer.</p> <p>12 A. I don't know the documents used in</p> <p>13 the course of business. He gave me a summary.</p> <p>14 Q. Did he give you a written summary</p> <p>15 more than once? 11:20:01</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. I don't recall.</p> <p>18 Q. Did Ed Paradiso also report to you</p> <p>19 with respect to this issue orally?</p> <p>20 A. Yes, we discussed it weekly. 11:20:14</p> <p>21 Q. And was this issue, again this is</p> <p>22 the issue that you communicated to Ed</p> <p>23 Paradiso, that certain laws should be</p> <p>24 communicated more strictly, was this ever</p> <p>25 discussed at a Village Board of Trustees 11:20:33</p>	<p style="text-align: right;">Page 370</p> <p>1 Rogers</p> <p>2 Q. When Ed Paradiso reported to you</p> <p>3 on this issue did you direct him to more</p> <p>4 strictly enforce any laws at Ocean Beach?</p> <p>5 MR. NOVIKOFF: Any laws -- well, 11:21:32</p> <p>6 objection. You can answer.</p> <p>7 A. The word direct I don't</p> <p>8 understand. The word direct, the answer is</p> <p>9 no, we had discussions about it.</p> <p>10 Q. In those discussions did you 11:21:56</p> <p>11 communicate to Ed Paradiso that in your view</p> <p>12 any laws at Ocean Beach should be enforced</p> <p>13 more strictly?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall what specific laws 11:22:08</p> <p>16 you communicated should be enforced more</p> <p>17 strictly?</p> <p>18 A. The only things that I can recall</p> <p>19 is the discussion about noise, about bicycle</p> <p>20 riding on weekends, about supervision or 11:22:26</p> <p>21 control of the 1 o'clock, 1 a.m. ferry on</p> <p>22 Saturday night, Sunday morning. That is all I</p> <p>23 can recall.</p> <p>24 Q. And did you communicate to Ed</p> <p>25 Paradiso more than once that those laws should 11:22:50</p>

<p style="text-align: right;">Page 371</p> <p>1 Rogers</p> <p>2 be enforced more strictly?</p> <p>3 MR. NOVIKOFF: Objection. Asked</p> <p>4 and answered. You can answer again.</p> <p>5 A. To my recollection there was more 11:22:58</p> <p>6 than one discussion.</p> <p>7 Q. Was it your belief that Ed</p> <p>8 Paradiso was in fact following through and</p> <p>9 enforcing those laws more strictly as you</p> <p>10 communicated to him he should? 11:23:17</p> <p>11 MR. NOVIKOFF: Objection, don't</p> <p>12 know the time period, but go ahead.</p> <p>13 A. I thought so.</p> <p>14 Q. Did you ever communicate to Ed</p> <p>15 Paradiso that you believed more summonses 11:23:29</p> <p>16 should be issued by the Ocean Beach Police</p> <p>17 Department?</p> <p>18 MR. NOVIKOFF: Objection. Asked</p> <p>19 and answered.</p> <p>20 A. It was all part of enforcement. 11:23:38</p> <p>21 Q. Were there any specific laws that</p> <p>22 you can recall that Trustee Einig believed</p> <p>23 should be enforced more strictly, but that you</p> <p>24 did not believe should be enforced more</p> <p>25 strictly? 11:24:00</p>	<p style="text-align: right;">Page 373</p> <p>1 Rogers</p> <p>2 A. No. Not the date, no.</p> <p>3 Q. Do you recall what the context of</p> <p>4 that conversation was?</p> <p>5 MR. NOVIKOFF: What the context 11:25:29</p> <p>6 was or what the substance of it was?</p> <p>7 MR. GRAFF: Where it occurred, how</p> <p>8 it was communicated.</p> <p>9 MR. NOVIKOFF: Okay.</p> <p>10 A. In executive session. 11:25:36</p> <p>11 Q. What do you recall of the</p> <p>12 substance of what Trustee Einig communicated</p> <p>13 in executive session with respect to this</p> <p>14 issue?</p> <p>15 MR. NOVIKOFF: Note my objection 11:25:47</p> <p>16 based on the prior comment, you have to</p> <p>17 answer that.</p> <p>18 A. He wanted to become Police</p> <p>19 Commissioner.</p> <p>20 Q. Do you recall if he expressed any 11:25:55</p> <p>21 reason why he should become Police</p> <p>22 Commissioner?</p> <p>23 MR. NOVIKOFF: Same objection.</p> <p>24 A. I couldn't possibly quote his</p> <p>25 language. 11:26:05</p>
<p style="text-align: right;">Page 372</p> <p>1 Rogers</p> <p>2 MR. NOVIKOFF: Objection. I am</p> <p>3 going to move for cost. You can answer.</p> <p>4 Patently irrelevant.</p> <p>5 A. No. 11:24:06</p> <p>6 Q. During the time that you served as</p> <p>7 Police Commissioner do you recall whether it</p> <p>8 was ever discussed at a Board of Trustees</p> <p>9 meeting whether somebody else should take over</p> <p>10 that role? 11:24:35</p> <p>11 A. At a Board of Trustees meeting,</p> <p>12 no.</p> <p>13 Q. Do you recall any conversations</p> <p>14 after you assumed the position of Police</p> <p>15 Commissioner, do you recall any conversations 11:24:47</p> <p>16 wherein it was expressed that somebody else</p> <p>17 should take on that role?</p> <p>18 A. Yes.</p> <p>19 Q. And who expressed such a view?</p> <p>20 A. Trustee Einig. 11:25:03</p> <p>21 Q. Did Trustee Einig express that</p> <p>22 view on more than one occasion?</p> <p>23 A. I only recall one occasion.</p> <p>24 Q. Do you recall when that occasion</p> <p>25 was? 11:25:17</p>	<p style="text-align: right;">Page 374</p> <p>1 Rogers</p> <p>2 Q. Without asking for you to quote</p> <p>3 his language, in substance do you recall any</p> <p>4 reasons that he communicated to support his</p> <p>5 interest in becoming Police Commissioner in 11:26:15</p> <p>6 your place?</p> <p>7 MR. NOVIKOFF: Same objection.</p> <p>8 A. That he would try and become more</p> <p>9 civil.</p> <p>10 Q. And what did you -- when you say 11:26:51</p> <p>11 that he in substance communicated that he</p> <p>12 would try to become more civil, in what way</p> <p>13 would he try to become more civil?</p> <p>14 MR. NOVIKOFF: Based upon his</p> <p>15 comments or based upon her perception? 11:27:07</p> <p>16 MR. GRAFF: Based upon what she</p> <p>17 understood from his comments.</p> <p>18 MR. NOVIKOFF: Okay. Same</p> <p>19 objection.</p> <p>20 A. His behavior on occasion was 11:27:17</p> <p>21 somewhat abusive.</p> <p>22 Q. Other than trying to become more</p> <p>23 civil did he express any other reasons to</p> <p>24 support his desire to become Police</p> <p>25 Commissioner in your place? 11:27:41</p>

<p style="text-align: right;">Page 375</p> <p>1 Rogers</p> <p>2 A. Just that he wanted it.</p> <p>3 Q. In substance do you recall whether</p> <p>4 he communicated any reasons why he would be a</p> <p>5 better Police Commissioner than he believed 11:27:57</p> <p>6 you were?</p> <p>7 MR. NOVIKOFF: Objection to form.</p> <p>8 I don't think you established a</p> <p>9 foundation, but you can answer the</p> <p>10 question. 11:28:06</p> <p>11 A. No, I do not.</p> <p>12 Q. Did Trustee Einig communicate any</p> <p>13 opinion with respect to your performance as</p> <p>14 Police Commissioner?</p> <p>15 MR. NOVIKOFF: Now you are laying 11:28:18</p> <p>16 a foundation. You can answer, but just</p> <p>17 note my prior objection.</p> <p>18 A. It was negative.</p> <p>19 Q. And did he express that opinion on</p> <p>20 more than one occasion? 11:28:43</p> <p>21 MR. NOVIKOFF: Note my prior</p> <p>22 objection with regard to executive</p> <p>23 session.</p> <p>24 A. I believe it was more than one</p> <p>25 objection, yes. 11:28:48</p>	<p style="text-align: right;">Page 377</p> <p>1 Rogers</p> <p>2 streets?</p> <p>3 MR. GRAFF: Ever.</p> <p>4 MR. NOVIKOFF: Ever. Objection to</p> <p>5 the form. Note my prior objection. 11:30:08</p> <p>6 A. He might have.</p> <p>7 Q. Can you recall in substance the</p> <p>8 basis for any criticism of your performance as</p> <p>9 Police Commissioner that Trustee Einig may</p> <p>10 have expressed? 11:30:27</p> <p>11 A. No, I cannot.</p> <p>12 Q. Did you at any time believe that</p> <p>13 there was any merit to Trustee Einig's</p> <p>14 criticism of your performance as Police</p> <p>15 Commissioner? 11:30:43</p> <p>16 A. No, I did not.</p> <p>17 Q. As you sit here today how would</p> <p>18 you evaluate your own performance as Police</p> <p>19 Department?</p> <p>20 MR. NOVIKOFF: Move for costs, you 11:31:00</p> <p>21 can answer, this is patently irrelevant,</p> <p>22 go ahead.</p> <p>23 A. I thought I did a fairly good job,</p> <p>24 perhaps not as thorough as I might have.</p> <p>25 Thoroughly, sorry. 11:31:24</p>
<p style="text-align: right;">Page 376</p> <p>1 Rogers</p> <p>2 Q. Did any of those occasions occur</p> <p>3 outside of an executive session?</p> <p>4 A. I don't recall.</p> <p>5 Q. Do you recall whether Trustee 11:29:02</p> <p>6 Einig communicated any reasons why he believed</p> <p>7 that your performance as Police Commissioner</p> <p>8 was negative?</p> <p>9 MR. NOVIKOFF: Same objection as</p> <p>10 to executive session. 11:29:15</p> <p>11 Q. Why he had a negative -- why his</p> <p>12 perception of your performance was that your</p> <p>13 performance was negative?</p> <p>14 MR. NOVIKOFF: Same objection.</p> <p>15 A. I have no recall of what he said. 11:29:24</p> <p>16 Q. Other than Trustee Einig do you</p> <p>17 recall whether anyone at Ocean Beach ever</p> <p>18 communicated dissatisfaction to you with</p> <p>19 respect to your performance as Ocean Beach</p> <p>20 Police Commissioner? 11:29:42</p> <p>21 A. No one that I know did.</p> <p>22 Q. Did Trustee Einig criticize your</p> <p>23 performance as Police Commissioner?</p> <p>24 MR. NOVIKOFF: Objection. In</p> <p>25 executive session, in a newspaper, in the 11:30:01</p>	<p style="text-align: right;">Page 378</p> <p>1 Rogers</p> <p>2 Q. Are there any specific areas that</p> <p>3 you can identify with respect to which you</p> <p>4 believe you should have been more thorough</p> <p>5 during your performance as Police 11:31:33</p> <p>6 Commissioner?</p> <p>7 MR. NOVIKOFF: Same comment.</p> <p>8 A. No.</p> <p>9 Q. Did you ever have any -- strike</p> <p>10 that. 11:31:44</p> <p>11 Did you ever communicate to George</p> <p>12 Hesse that any laws in Ocean Beach should be</p> <p>13 enforced more strictly?</p> <p>14 MR. NOVIKOFF: Objection. Asked</p> <p>15 and answered. 11:31:53</p> <p>16 A. Not that I recall.</p> <p>17 Q. To your knowledge when a summons</p> <p>18 is issued in Ocean Beach that results in the</p> <p>19 imposition of a fine where do the funds</p> <p>20 comprising those fines -- where does that 11:32:17</p> <p>21 money go?</p> <p>22 MR. NOVIKOFF: Move for costs,</p> <p>23 completely irrelevant. You can answer.</p> <p>24 A. I don't know.</p> <p>25 Q. As you sit here today do you 11:32:28</p>

35 (Pages 375 to 378)

<p style="text-align: right;">Page 379</p> <p>1 Rogers</p> <p>2 believe that the decision to end the</p> <p>3 employment of the plaintiffs as police</p> <p>4 officers at Ocean Beach was justified?</p> <p>5 MR. NOVIKOFF: Objection. You can 11:32:53</p> <p>6 answer.</p> <p>7 A. You got one word there that I</p> <p>8 don't understand.</p> <p>9 Q. Please.</p> <p>10 A. That the decision to -- what was 11:33:00</p> <p>11 the word?</p> <p>12 Q. To end the employment?</p> <p>13 A. End?</p> <p>14 Q. Yes. Maybe I can make that more</p> <p>15 clear. 11:33:16</p> <p>16 A. You have to because seasonal</p> <p>17 people started at the beginning of the season</p> <p>18 and their employment ended by the nature of</p> <p>19 the way they were employed at the end of the</p> <p>20 season. 11:33:28</p> <p>21 Q. To your knowledge during the off</p> <p>22 season or between seasons were any of these</p> <p>23 plaintiffs employed as police officers?</p> <p>24 MR. NOVIKOFF: Objection. Asked</p> <p>25 and answered. 11:33:42</p>	<p style="text-align: right;">Page 381</p> <p>1 Rogers</p> <p>2 with civil service regulations.</p> <p>3 Q. And how did George Hesse in</p> <p>4 substance respond to that question?</p> <p>5 MR. NOVIKOFF: Objection. Asked 11:34:59</p> <p>6 and answered. You can answer again.</p> <p>7 A. He said yes, it was.</p> <p>8 Q. Did you ever inquire of George</p> <p>9 Hesse why he made that decision to discontinue</p> <p>10 the employment of these police officers? 11:35:08</p> <p>11 MR. NOVIKOFF: Objection. Asked</p> <p>12 and answered. You can answer it.</p> <p>13 A. No, I did not.</p> <p>14 Q. Did you at any point other than in</p> <p>15 the presence of counsel learn any information 11:35:24</p> <p>16 concerning why the employment of these</p> <p>17 plaintiffs did not continue as police</p> <p>18 officers?</p> <p>19 A. Only that George Hesse told me</p> <p>20 that he felt it was not in the best interest 11:35:40</p> <p>21 of the village.</p> <p>22 Q. Are those his exact words as best</p> <p>23 you can recall?</p> <p>24 MR. NOVIKOFF: Objection.</p> <p>25 A. No. My recollection of the 11:35:49</p>
<p style="text-align: right;">Page 380</p> <p>1 Rogers</p> <p>2 A. I don't know.</p> <p>3 Q. To your knowledge was the decision</p> <p>4 not to continue the employment of any of these</p> <p>5 plaintiffs as police officers justified? 11:33:56</p> <p>6 MR. NOVIKOFF: Objection. Asked</p> <p>7 and answered. Foundation. You can</p> <p>8 answer.</p> <p>9 A. I have no basis for an opinion on</p> <p>10 that. The answer is I don't know. 11:34:06</p> <p>11 Q. Did you ever, other than in the</p> <p>12 presence of counsel, did you ever inquire of</p> <p>13 anyone as to the reasons why these plaintiffs'</p> <p>14 employment as police officers at Ocean Beach</p> <p>15 did not continue? 11:34:22</p> <p>16 MR. NOVIKOFF: Objection. When;</p> <p>17 prior to the end of her term as mayor or</p> <p>18 subsequent to the end of her term as</p> <p>19 mayor?</p> <p>20 Q. At any time? 11:34:35</p> <p>21 MR. NOVIKOFF: Objection to the</p> <p>22 form of the question. You can answer.</p> <p>23 A. At the time that I was advised</p> <p>24 about it I asked the one question of George</p> <p>25 Hesse, whether or not this was in compliance 11:34:45</p>	<p style="text-align: right;">Page 382</p> <p>1 Rogers</p> <p>2 general context. There was no specific answer</p> <p>3 that I can recall.</p> <p>4 MR. GRAFF: Counsel, I have five</p> <p>5 minutes, if I could take a two minute 11:36:07</p> <p>6 break to wrap it up.</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 11:36 a.m., we are off the record.</p> <p>9 (Recess taken.)</p> <p>10 THE VIDEOGRAPHER: The time is now 11:37:57</p> <p>11 11:38 a.m., we are now back on the</p> <p>12 record.</p> <p>13 Q. Mayor Rogers, to your knowledge</p> <p>14 was there ever a point in time when Ed</p> <p>15 Paradiso worked on the day shift and George 11:38:30</p> <p>16 Hesse worked on the night shift?</p> <p>17 MR. NOVIKOFF: As a general matter</p> <p>18 or as an exception?</p> <p>19 Q. As their regular shift during her</p> <p>20 employment as Mayor and Police Commissioner? 11:38:43</p> <p>21 MR. NOVIKOFF: Okay, you can</p> <p>22 answer.</p> <p>23 A. There was a point in time I</p> <p>24 believe, yes.</p> <p>25 Q. To your knowledge did they ever 11:38:49</p>

<p style="text-align: right;">Page 383</p> <p>1 Rogers</p> <p>2 come to switch such that Hesse worked day</p> <p>3 shifts and Paradiso worked the night shift?</p> <p>4 A. I believe so.</p> <p>5 Q. To your knowledge did the Board of 11:39:00</p> <p>6 Trustees play any role in connection with that</p> <p>7 shift?</p> <p>8 A. Informally, yes.</p> <p>9 Q. In what sense did the Village</p> <p>10 Board of Trustees play an informal role in 11:39:14</p> <p>11 connection with that transition?</p> <p>12 A. There was some discussion that it</p> <p>13 was important for Ed to be seen on the night</p> <p>14 shift because that is where evening problems</p> <p>15 occurred, most of the problems in the village 11:39:30</p> <p>16 that had to do with police matters occurred.</p> <p>17 Q. What was your understanding of why</p> <p>18 it was expressed that it would be important</p> <p>19 for Ed Paradiso rather than Hesse to be seen</p> <p>20 on the night shift? 11:39:50</p> <p>21 A. Because when Ed Paradiso was the</p> <p>22 police chief, he was the chief, and the</p> <p>23 village -- the homeowners in the village</p> <p>24 wanted to see the chief working at night.</p> <p>25 Q. Do you recall whether the home 11:40:04</p>	<p style="text-align: right;">Page 385</p> <p>1 Rogers</p> <p>2 A. In a Board of Trustee meetings is</p> <p>3 what you asked?</p> <p>4 Q. Yes.</p> <p>5 A. The answer is no. 11:40:58</p> <p>6 Q. Do you recall whether anyone ever</p> <p>7 expressed to you dissatisfaction with Hesse's</p> <p>8 performance as a police officer during the</p> <p>9 time that you worked as a -- served as Mayor</p> <p>10 or Police Commissioner? 11:41:12</p> <p>11 MR. NOVIKOFF: Outside of presence</p> <p>12 of counsel?</p> <p>13 MR. GRAFF: Yes. Like all</p> <p>14 questions, outside the presence of</p> <p>15 counsel. 11:41:21</p> <p>16 MR. NOVIKOFF: Okay.</p> <p>17 A. No, I have no specific</p> <p>18 recollection of that.</p> <p>19 Q. Once Hesse switched to days and</p> <p>20 Paradiso switched to nights did they continue 11:41:43</p> <p>21 serving on those shifts for the duration of</p> <p>22 your service as Mayor or Police Commissioner?</p> <p>23 A. I have no idea because at one</p> <p>24 point Ed Paradiso ceased to function as a</p> <p>25 full-time Police Commissioner, and I cannot 11:42:00</p>
<p style="text-align: right;">Page 384</p> <p>1 Rogers</p> <p>2 owners in the village or anyone else expressed</p> <p>3 any dissatisfaction with Hesse's performance</p> <p>4 on the night shift?</p> <p>5 MR. NOVIKOFF: Prior to the 11:40:15</p> <p>6 switch?</p> <p>7 Q. In connection with the switch,</p> <p>8 leading up to the switch?</p> <p>9 MR. NOVIKOFF: Okay, prior to the</p> <p>10 switch. 11:40:16</p> <p>11 A. Nothing that I heard. I have</p> <p>12 heard nothing.</p> <p>13 Q. Do you recall whether in any</p> <p>14 Village Board of Trustees meeting anyone ever</p> <p>15 expressed dissatisfaction with Hesse's 11:40:39</p> <p>16 performances as a police officer.</p> <p>17 MR. NOVIKOFF: As a trustee or as</p> <p>18 an individual?</p> <p>19 MR. GRAFF: As either.</p> <p>20 MR. NOVIKOFF: Break it down, 11:40:47</p> <p>21 because then I object to the form.</p> <p>22 MR. GRAFF: Okay, object to the</p> <p>23 form.</p> <p>24 MR. NOVIKOFF: Okay, you can</p> <p>25 answer the question. 11:40:54</p>	<p style="text-align: right;">Page 386</p> <p>1 Rogers</p> <p>2 place the date on that.</p> <p>3 Q. Do you recall any specific</p> <p>4 homeowners who expressed or communicated that</p> <p>5 they wanted to see the chief on the night 11:42:10</p> <p>6 shift?</p> <p>7 A. No.</p> <p>8 Q. To your knowledge did anyone ever</p> <p>9 conduct formal reviews of the performance of</p> <p>10 any police officers at the Ocean Beach Police 11:42:35</p> <p>11 Department during the time that you served as</p> <p>12 Police Commissioner?</p> <p>13 MR. NOVIKOFF: Objection. Asked</p> <p>14 and answered. You can answer.</p> <p>15 A. To my knowledge no. 11:42:41</p> <p>16 Q. Do you recall whether Trustee</p> <p>17 Loeffler communicated any opinion in</p> <p>18 connection with the switch between Ed Paradiso</p> <p>19 and George Hesse on the night shift and the</p> <p>20 day shift? 11:43:00</p> <p>21 MR. NOVIKOFF: Objection.</p> <p>22 A. I do not recall, no.</p> <p>23 MR. NOVIKOFF: We are at the 44</p> <p>24 minute mark, do you have a few more</p> <p>25 questions? 11:43:09</p>

Page 387	Page 389
<p>1 Rogers</p> <p>2 MR. GRAFF: We can stop at this</p> <p>3 point.</p> <p>4 MR. NOVIKOFF: I am asking you, do</p> <p>5 you have a few more questions, or do you 11:43:14</p> <p>6 want to stop, because if you stop, then</p> <p>7 you are stopped?</p> <p>8 Q. Mayor Rogers, between the last day</p> <p>9 of your -- the first day of your deposition</p> <p>10 testimony and today did you have any 11:43:27</p> <p>11 communications with anyone other than counsel</p> <p>12 with respect to your first day or anticipated</p> <p>13 second day of deposition?</p> <p>14 A. No.</p> <p>15 Q. Do you currently have any 11:43:47</p> <p>16 documents pertaining to Ocean Beach in your</p> <p>17 possession or control whether at your property</p> <p>18 in Queens or elsewhere?</p> <p>19 A. I think I have some old copies of</p> <p>20 Mayor's Corner that I have not thrown out yet, 11:44:07</p> <p>21 that was a newsletter that I sent out from</p> <p>22 time to time.</p> <p>23 Q. The minutes of Board of Trustees</p> <p>24 meetings, are those public records?</p> <p>25 MR. NOVIKOFF: Objection. 11:44:23</p>	<p>1 Rogers</p> <p>2 today?</p> <p>3 MR. GRAFF: I am done for today.</p> <p>4 MR. NOVIKOFF: Okay. Well, I</p> <p>5 believe the plaintiff's counsel has taken 11:45:27</p> <p>6 the time allotted by the court, so I</p> <p>7 would object to any further time. But</p> <p>8 obviously that is up to plaintiff's</p> <p>9 counsel.</p> <p>10 Mr. Connolly, do you have any 11:45:40</p> <p>11 questions.</p> <p>12 MR. CONNOLLY: No.</p> <p>13 MR. NOVIKOFF: I do not have any</p> <p>14 questions. Thank you very much,</p> <p>15 Ms. Rogers. 11:45:47</p> <p>16 THE WITNESS: Thank you, sir.</p> <p>17 THE VIDEOGRAPHER: That concludes</p> <p>18 the video record for today. The time is</p> <p>19 (Continued on next page.)</p> <p>20 11:45:51</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 388	Page 390
<p>1 Rogers</p> <p>2 A. Everything I have is public</p> <p>3 records. I am sorry.</p> <p>4 MR. NOVIKOFF: Objection to the</p> <p>5 form. You can answer the question. 11:44:28</p> <p>6 Q. Did you have correspondence that</p> <p>7 was addressed to you in your capacity as Mayor</p> <p>8 of Ocean Beach at your property in Queens?</p> <p>9 A. Mostly not. I didn't keep those</p> <p>10 type of documents. 11:44:45</p> <p>11 Q. Do you have any reason to believe</p> <p>12 that you had some of those types of documents</p> <p>13 at your files in Queens?</p> <p>14 A. I may have had some papers, but</p> <p>15 they were all thrown out. Anything that I had 11:45:01</p> <p>16 was same copies that are in the village</p> <p>17 office.</p> <p>18 MR. NOVIKOFF: Perfect, one more</p> <p>19 question.</p> <p>20 MR. GRAFF: Thank you for your 11:45:11</p> <p>21 time.</p> <p>22 MR. NOVIKOFF: So you are done;</p> <p>23 are you concluded with your deposition,</p> <p>24 again you reserve your right to do</p> <p>25 whatever you want, but are you done for 11:45:21</p>	<p>1 Rogers</p> <p>2 now 11:45 a.m., we are now off the</p> <p>3 record.</p> <p>4 (Time noted: 11:45 a.m.)</p> <p>5</p> <p>6 <u>NATALIE ROGERS</u></p> <p>7</p> <p>8 Subscribed and sworn to before me</p> <p>9 this ____ day of _____, 2008</p> <p>10</p> <p>11 _____</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<div style="display: flex; justify-content: space-between;"> 1 CERTIFICATE </div> <div style="display: flex; justify-content: space-between;"> 2 STATE OF NEW YORK) </div> <div style="display: flex; justify-content: space-between;"> 3 : ss. </div> <div style="display: flex; justify-content: space-between;"> 4 COUNTY OF NEW YORK) </div> <div style="display: flex; justify-content: space-between;"> 5 </div> <div style="display: flex; justify-content: space-between;"> 6 </div> <div style="display: flex; justify-content: space-between;"> 7 I, Philip Rizzuti, a Notary Public </div> <div style="display: flex; justify-content: space-between;"> 8 within and for the State of New York, do </div> <div style="display: flex; justify-content: space-between;"> 9 hereby certify: </div> <div style="display: flex; justify-content: space-between;"> 10 That NATALIE ROGERS, the witness </div> <div style="display: flex; justify-content: space-between;"> 11 whose deposition is hereinbefore set forth, </div> <div style="display: flex; justify-content: space-between;"> 12 was duly sworn by me and that such deposition </div> <div style="display: flex; justify-content: space-between;"> 13 is a true record of the testimony given by </div> <div style="display: flex; justify-content: space-between;"> 14 the witness. </div> <div style="display: flex; justify-content: space-between;"> 15 I further certify that I am not </div> <div style="display: flex; justify-content: space-between;"> 16 related to any of the parties to this action </div> <div style="display: flex; justify-content: space-between;"> 17 by blood or marriage, and that I am in no way </div> <div style="display: flex; justify-content: space-between;"> 18 interested in the outcome of this matter. </div> <div style="display: flex; justify-content: space-between;"> 19 IN WITNESS WHEREOF, I have </div> <div style="display: flex; justify-content: space-between;"> 20 hereunto set my hand this 26th day of </div> <div style="display: flex; justify-content: space-between;"> 21 December, 2008. </div> <div style="display: flex; justify-content: space-between;"> 22 </div> <div style="display: flex; justify-content: space-between;"> 23 PHILIP RIZZUTI </div> <div style="display: flex; justify-content: space-between;"> 24 </div> <div style="display: flex; justify-content: space-between;"> 25 </div>	<div style="display: flex; justify-content: space-between;"> 1 *** ERRATA SHEET *** </div> <div style="display: flex; justify-content: space-between;"> 2 </div> <div style="display: flex; justify-content: space-between;"> 3 NAME OF CASE: CARTER VS. OCEAN BEACH </div> <div style="display: flex; justify-content: space-between;"> 4 DATE OF DEPOSITION: December 15, 2008 </div> <div style="display: flex; justify-content: space-between;"> 5 NAME OF WITNESS: NATALIE ROGERS </div> <div style="display: flex; justify-content: space-between;"> 6 PAGE LINE FROM TO </div> <div style="display: flex; justify-content: space-between;"> 7 <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 10%;">5</td><td style="width: 10%;"> </td><td style="width: 10%;"> </td><td style="width: 10%;"> </td><td style="width: 10%;"> </td></tr> <tr><td>6</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>7</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>8</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>9</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>10</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>11</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>12</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>13</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>14</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>15</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>16</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>17</td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td>18</td><td> </td><td> </td><td> </td><td> </td></tr> </table> </div> <div style="display: flex; justify-content: space-between;"> 19 </div> <div style="display: flex; justify-content: space-between;"> 20 </div> <div style="display: flex; justify-content: space-between;"> 21 NATALIE ROGERS </div> <div style="display: flex; justify-content: space-between;"> 22 Subscribed and sworn to before me </div> <div style="display: flex; justify-content: space-between;"> 23 this ____ day of _____, 2008. </div> <div style="display: flex; justify-content: space-between;"> 24 </div> <div style="display: flex; justify-content: space-between;"> 25 (Notary Public) My Commission Expires: </div>	5					6					7					8					9					10					11					12					13					14					15					16					17					18				
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